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THE STATUTES.—The Articles on the "Legislation of the Year" will be continued until the subject is completed. We shall occasionally draw attention in our leading columns to some of the more salient features of the late enactments. In our next Number we shall commence printing a selection of the more important Statutes, keeping them distinct from the body of the Journal.

THE SOLICITORS' JOURNAL.

LONDON, SEPTEMBER 12, 1857.

NEW LAW COURTS.

We apprehend that the question, where is the Judge of the new Courts of Probate and Divorce to hold his sittings, is one of very immediate and pressing interest. We cannot be charged with impertinent intrusion upon the dearly-bought repose of the present month, if we venture to urge upon the Government that there really is an inevitable necessity for making up their minds on this subject without delay. In December last a deputation of the Incorporated Law Society waited upon the Chief Commissioner of Public Works to represent to him the importance of concentrating all the law courts and offices in some one convenient locality. Considering that the question had then been agitated for some fifteen years by all the usual machinery of pamphlets, petitions, and committees of the House of Commons, it may be supposed that the deputation were well up in their case, and stated their argument with a good deal of force and clearness. The only result, however, appears to have been that Sir Benjamin Hall proved to them that the wrong men had come to the wrong place. Any representation on behalf of the lawyers generally should be urged, he thought, by the judges, and should be laid before the Government, whose order it would be his own duty to carry out. It was then suggested by the deputation that a fund existed in the Court of Chancery which might be made available under certain conditions to defray the expense of building, and the Chief Commissioner was requested to move for a Select Committee of the House of Commons to consider this portion of the subject. But here, again, a most reasonable proposition was set aside for an alleged technical informality. The Attorney-General, it was objected, was the proper organ of the Government to make such a motion in the House; and so Sir Benjamin Hall politely advised his visitors to put themselves in communication with that already over-worked functionary; and having thus neatly shelved a troublesome business for some time, he dismissed the deputation with as large an allowance of courtesy and common-place phrases as is usually bestowed by a Minister who understands his duty.

But really this subject is growing every year so important to all lawyers, that neither bows nor smiles, nor sounding talk about "judges of the land" and "principal law officers of the Crown," will suffice much longer to pacify the demand for change. What, we ask again, is to be done for the Judge of the Courts of Probate and Divorce? Shall Parliament, which called him into existence, omit to provide for its offspring a roof to shelter him? We have not observed any ugly edifice of brick rising rapidly in either of the inns of court to astonish the occupants of chambers, on their return to the labours of next term. It will be remembered that the two unsightly courts in Old-square, Lincoln's-inn, now occupied by Vice-Chancellors, were built in the recess following the appointment of additional judges. But we cannot discover that any corresponding activity exists now. And yet, as a commercial speculation, it would probably be well worth while for either of the inns of court to provide, at its own expense, accommodation for the new tribunals within its precincts. But wherever else it may be expedient or practicable to locate the Judge of Probate and Divorce, one point, we think, is clear, that he should not be allowed to sit for a single day at Doctors' Commons. It was said that the Court of Chancery would never be effectually reformed until the procedure of the Masters' Offices was not only remodelled, but transferred from Southampton-buildings to some other atmosphere less charged with sleepy influences. We believe that the reforms of the late session demand the same precaution to insure success; and if a new court cannot be immediately provided in the metropolis, we would advise that the Judge be sent on a provincial tour, so as to test the appreciation of the country for a local remedy, until arrangements can be made to start him in business in London, in a good situation, and under conditions favourable to success.

But there is another aspect of this question in which its increasing urgency is undeniable. The common-law business has now become so large, that two, or even three, judges of one or more courts have been trying causes simultaneously during the past year. Now it was stated some time ago that the late Chief Justice of the Common Pleas was under the necessity of ascending eighty-five steps to reach the room then appropriated for his sittings in term at *Nisi Prius*, and that aged and feeble witnesses had declared themselves incapable of obeying the exigency of the subpœna served upon them. The Common Pleas, in fact, has no second court at all, and has been obliged, until lately, to content itself with what is called in the memorials of the Law Society a "temporary room somewhere about Westminster Hall," and at a considerable distance, either perpendicular or horizontal, or both, from the chief scene of business. The Exchequer had always the enjoyment of a second court—a recondite cell, with a single narrow access, intended, we believe, for the sittings of the Court of Error. Perhaps if this were the original plan, the architect was not much to blame. It is true that the conclave of eight or more judges on appeals did not gain in solemnity by being poked into an obscure hole like this; but it might be justly calculated that no impression made by this tribunal could ever extend far. The dry legal discussions of the Exchequer Chamber would seldom obtain a single listener free to go elsewhere, and the public would never be seen in the Court of Error unless they got there by mistake. But whatever idea may have possessed the designer's mind, this he certainly did not contemplate, that Mr. Edwin James, on a sultry summer afternoon, should address a common jury on a question interesting to grooms and cabmen. The Queen's Bench have also a second court, originally appropriated, as its name implies, to taking bail—a process which could have but slender interest either for the town idler or the country sight-seer, and which, therefore, might well go on in an apartment utterly inadequate for the trial of *Nisi Prius* causes.

We are aware that the evils above described have been lately, to a great extent, mitigated by holding the sit-

tings of the equity courts almost entirely at Lincoln's-inn. The exhilirating sport of hunting a Vice-Chancellor up turrets and along galleries is now enjoyed by counsel and solicitors only upon the first day of term; and the only two tolerably good courts belonging to the Chancery judges at Westminster are generally available for the use of their brethren at common law. But the concession thus made of one part of the original demand places beyond all dispute the expediency of a total change. The inconvenience of sitting at a distance from the chambers of counsel and solicitors, and from the offices of the court, coupled with the existence close to Chancery-lane of accommodation which, though by no means adequate, is at least as good as any that is to be found at Westminster, has determined the judges upon the virtual abandonment of their ancient seats. At common law, the delay and difficulty of transacting judicial business at Westminster is quite as keenly felt; but there are no old halls or new brick sheds within the precincts of the Temple to render the protest of its inhabitants against the waste of their time unanswerable. That daily walk along the Strand and Parliament-street, which Lord St. Leonards declared to be a positive advantage on the score of health, is still obligatory upon the Templars, or may be exchanged at pleasure for a river voyage, which it is very likely that some other sage, equally superior to modern prejudices, has in some other blue book proclaimed to be the true specific for securing length of days. But we venture to hope that the physical wellbeing of barristers practising in the Temple may not be found irreconcilable with the economy of their own and of official and judicial time. A system which fifteen years ago was defended almost solely by Lord St. Leonards must surely be now verging upon its decline. It is pleasant to hear how much a man of eminent ability can find to say, where one might have thought there was nothing to be said at all. The argument is curious, but it does not satisfy our minds. When manufacturers and even tradesmen employ the telegraph to communicate over the width of a single street, it cannot be good policy to separate one portion of the lawyers from the rest by an interval of upwards of a mile, which must be traversed backwards and forwards throughout the day in cabs. The wisdom of concentration is indisputable. There are but two places which can claim to be selected for the site, and either of them would be available if desired. Even the money is ready for the whole work; and nothing is wanting but the necessary effort to set the official machinery in motion. We purpose, on another occasion, to explain the details of the plan, and the many advantages to the public and to all branches of the profession which may be expected to result from its being carried out.

THE DIVORCE ACT.

There are three ways in which any one who studies an Act of Parliament may examine its contents, and present them to himself and others. He may turn the whole substance of the Act into a narrative form; it is thus that writers of text books, like Blackstone or Serjeant Stephen, have to deal with Acts important enough to be transplanted into a summary of law. Or he may consider how the general public are affected by the Act, and in what way its contents bear upon social life, or the fortunes of bodies corporate, families, and individuals. Lastly, he may view it as a professional reader would view it, who wished to have a general notion of the scope and import of its enactments. A legal practitioner cannot remember the details of Acts of Parliament; but when an important Act is passed, he wishes to know generally what are the points which he must bear in mind, so as to approach the circumstances of any case submitted to him, with some degree of certainty and confidence. It is in this last way that we now propose to look at the Divorce Bill. Many of its clauses may be dismissed from the consideration of a professional man. Some of them are general, and affect him no more than any other member of the community. A solicitor, for instance, is not, as a solicitor, concerned with the clauses giving compensation to proctors, or exempting the clergy from the obligation of re-marrying adulterers. Others again are so purely technical, that no one would think of trusting his memory on the subject—such, for instance, as those clauses which regulate the stamps or fees of the new court. A practitioner must turn to the Act itself for information on such points; but the main provisions of the Act form a body of matter, of which any one in practice may be expected to have such a knowledge as will enable him to speak of divorce and matrimonial causes in a professional way.

Divorce *à vinculo* is a subject easier than any other dealt with by the Act to speak of with precision. The provisions regarding it are simple, and easily understood. If it is a husband who wishes to dissolve the marriage tie, he must present a petition, supported by an affidavit, charging his wife with adultery, and making the alleged adulterer a co-respondent. If he pleases, he may also ask for damages from the adulterer, and these damages will be assessed by a jury. The demand for damages is entirely in the option of the husband; but if they are asked for and obtained, it is in the power of the Court to direct how they shall be applied, and to make a provision out of them for the wife and children. The husband will also be liable to provide alimony for the wife, if it is reasonable he should do so; but in case his wife has any property of her own, he may apply for a settlement in his favour out of it. His claim may, in the discretion of the Court, be denied if he can be shown to have been guilty of adultery, cruelty, or desertion of his wife; and he may be ordered to attend and be examined, but no question can be put to him, the object of which is to show that he has been guilty of adultery. It is probable that petitions for divorce *à vinculo*, presented by the wife, will be very rare; but there are three grounds on which the dissolution of the marriage tie may be asked for by the wife, which, among the lower orders, very frequently exist; and, since suing *in formâ pauperis* is to be allowed, it is possible that wives may occasionally claim the assistance of the law. These three grounds are—adultery coupled with bigamy, adultery coupled with desertion for two years, and adultery coupled with excessive cruelty. In case a divorce *à vinculo* is granted, the Court has power to make such order as it may think proper with respect to the custody, maintenance, and education of the children of the marriage.

A sentence of judicial separation, which is to have the effect of the old divorce *à mensâ et thoro*, may be obtained by either husband or wife on the ground of adultery, cruelty, or desertion for two years; and the husband may, if he pleases, ask for damages from the alleged adulterer, as he also may without applying for any remedy against the wife. In every case of judicial separation the wife, of course, will be entitled to alimony, if circumstances render it reasonable that she should have it; and, further, she is to be considered as a *feme sole* with respect to all property which she may subsequently acquire, or which may come to, or devolve upon, her. She will sue and be sued as if she were unmarried; and if she again cohabits with her husband, all the property which she may be entitled to at the time of the re-union will be held to her separate use, subject, however, to any agreement in writing made between herself and her husband whilst separate.

A wife deserted by her husband has also a more summary remedy. She may apply in London to a police-magistrate, or in the country to justices in petty sessions, for protection; and after she has proved the fact of desertion without reasonable cause, and also that

she is maintaining herself by her own industry or property, she may obtain an order by which her earnings and property acquired since the desertion began will be protected from her husband, and all creditors and other persons claiming under him. If the husband, or any person claiming under him, in defiance of such an order, seizes on any portion of the property secured by it, the wrongdoer will be liable, not only to restore the specific property, but also to pay double the value by way of damages. The husband, or any person claiming under him, may, however, apply to the court, or to the magistrate or justices by whom the order was made, to discharge it; but whilst it is in force the wife is to be exactly in the same position with regard to property as if she had obtained a judicial separation.

The Judge of the Court of Probate will be the Judge Ordinary of the Court of Divorce and Matrimonial Causes. From him an appeal will lie to the full court, composed of the Lord Chancellor, the three chiefs and the three senior puisne judges of the courts of common law; and then an appeal may be carried to the House of Lords. When petitions for divorce *à vinculo* are to be heard, two of the other judges must always sit with the judge ordinary. The Court will act, as far as possible, on the principles and rules hitherto adopted and observed in the Ecclesiastical Courts. When questions of fact are tried, the rules of evidence will be the same as those obtaining in the courts of common law, and the decrees and orders of the Court will be enforced like the decrees and orders of the Court of Chancery. Questions of fact are to be tried by the Court itself, if the intervention of a jury seems not to be necessary, or is not demanded. But any of the parties may demand a jury, or the Court may direct that a jury shall be summoned to try the question at issue; and this trial may, at the discretion of the Court, take place before itself, or any one of its judges, or before any of the judges of assize. The judges of assize have also a local power quite independent of the Court. Petitions for restitution of conjugal rights, or for a judicial separation, may be presented direct to them, and they will have the same authority and powers as the Court itself for hearing and deciding applications made to them; but their orders will be subject to be reviewed by the judge ordinary. The Act is to come into operation on any day not sooner than the first day of January next, which the Queen shall by Order in Council appoint.

Legal News.

COURT OF CHANCERY.—*July 15 and 16.*

(Before the MASTER OF THE ROLLS.)

Perry Herrick v. *Attwood.*

The plaintiffs in this suit were mortgagees upon an estate near Chelmsford, known as the "Hylands Estate," belonging to the defendant, John Attwood, for sums amounting together to £25,000 and interest, claiming as transferees under mortgage securities dated Sept. 7, 1850, Jan. 24, 1851, May 17, 1851, and Aug. 27, 1851. The defendants, other than John Attwood, also claimed to have charges upon the same estate, either as mortgagees or judgment creditors; the defendants, Frances Attwood, Maria Attwood, Thomas Troward, and Catherine his wife, claiming, as mortgagees for £30,000, under an indenture of Jan. 30, 1848, to have the first charge upon the estate.

The Hylands estate was purchased from the Right Hon. Henry Labouchere, and conveyed to the plaintiff, John Attwood, in 1839. It consists of the mansion-house, pleasure grounds, and park surrounding, with three small farms, comprising altogether about 750 acres of land, of which about 700 acres are freehold, and the remainder copyhold of inheritance; the copyhold lands being excepted from the alleged mortgage of Jan. 30, 1848. The value of the freehold portion of the estate (including the mansion) may be about £40,000.

The question at issue in this suit was, whether the plaintiffs, under their said securities, were not entitled to priority of charge for their mortgage debt, amounting to £25,000, over the defendants, Frances Attwood and her sisters, for their mortgage debt of £30,000, notwithstanding the security for the latter sum bore date prior to the date of any of the plaintiffs' securities; for the reason, that, the defendants claiming under the deed of Jan. 30, 1848, although at the time when their mortgage deed was executed the title deeds were in the actual possession and power of their solicitor, Roger Williams Gem, and there was no reason why he should not retain them on their behalf, they allowed him to hand the deeds over immediately afterwards to the defendant, John Attwood, and did not take any steps to have any notice of their said alleged mortgage inscribed on any of them: whilst, on the other hand, those through whom the plaintiffs claimed advanced their money, and took their securities, without notice of any prior incumbrance, and on the faith of having the first charge—the title deeds to the estate, including the conveyance deed to John Attwood, having been produced by his solicitor, and handed over to them in the usual and ordinary way upon the advance of their moneys.

It appeared, that, in the month of January, 1848, and for some time previously, the defendant, John Attwood, who was then a man of considerable wealth, and owned large landed estates in Essex and elsewhere, resided with his sisters, the defendants, Frances Attwood and Maria Attwood, in Park-lane, Hyde-park. He had in his hands at this time £30,000, which formed the fortunes of his sisters, the defendants, Frances Attwood, Maria Attwood, and Catherine Troward, for which sum they held no security. In the early part of the month of Jan. 1848, Mr. Roger Williams Gem, a solicitor, of Birmingham, who had for many years been the confidential solicitor and adviser of Mr. Attwood and his family, at Mr. Attwood's request, came to London to make his will and otherwise arrange his affairs. He stayed in town about a month, and, during his stay, he spoke to the defendants, Frances Attwood and Maria Attwood, on the subject of the money owing by their brother to themselves and their sister, Mrs. Troward, and told them he intended to prepare a security for it, and get the defendant, John Attwood, to sign it, and they left him to do what was necessary for them. Shortly after this conversation, a deed (of Jan. 30, 1848) was prepared; and, soon after its date, it was executed by John Attwood and the other parties to it. It was a mortgage by demise for 200 years of the Hylands estate (except the copyhold parts thereof) for securing £30,000 and interest. It did not contain any power of sale. After the deed had been so executed, it was tied up in paper by Mr. Gem, and handed to Miss Maria Attwood; and the title deeds to the Hylands estate, including the conveyance deed to Mr. Attwood, were tied up and returned by Mr. Gem to Mr. Attwood, by whom they were retained.

During the months of January, February, and March, 1848, two actions at law were pending against John Attwood. These were brought to recover certain moneys owing by him, and were prosecuted and defended up to the 3rd March, 1848, when a preliminary agreement was entered into for the settlement of the actions; and the title deeds of the Hylands estate were, on the 6th March, 1848, delivered by the defendant, John Attwood, himself, in pursuance of that agreement, to Messrs. Pooly, Beisly, & Read.

In the early part of the year 1850, the defendant, John Attwood, applied, through Mr. Beisly, his then solicitor, to Mr. Whitaker for a loan of £15,000 upon mortgage of the Hylands estate. This loan was agreed to and carried out by the abovementioned mortgage of Sept. 7, 1850. Subsequently the mortgages of Jan. 24, 1851, May 17, 1851, and Aug. 27, 1851, were executed. On the occasion of the advance of £15,000, the title having been duly examined and approved, the title deeds to the Hylands estate were handed over by Mr. Beisly, as Mr. Attwood's solicitor, to Mr. Whitaker, as the solicitor to the mortgagees; and those gentlemen advanced their money and took their securities (as they alleged) on the faith of having the first charge, and without notice of the mortgage of Jan. 30, 1848, or of the deposit of the title deeds with Mr. Beisly, or of any prior incumbrance.

In the month of November, 1851, the defendant, John Attwood, applied, through his solicitors, Messrs. Beisly & Read, to Messrs. Barker, Bowker, & Peake for a loan upon mortgage of the Hylands estate, and other of his estates in Essex and Dorsetshire; and, after much negotiation, a loan of £6,000 was arranged, and this loan was carried out by a mortgage deed of Dec. 16, 1851. Statutory declarations were required and taken from the defendant, John Attwood, and his solicitors, Messrs. Beisly & Read, as to the incumbrances then existing upon the Hylands estate; and the £6,000 (it was alleged) was advanced

on the faith of those declarations, and of the deeds being in the custody of the person represented to have the first mortgage.

In the month of September, 1853, the mortgages for the £25,000, secured by the several deeds of Sept. 7, 1850, Jan. 24, 1851, May 17, 1851, and Aug. 24, 1851, were transferred to the plaintiffs. The practice of solicitors as regards the custody of title deeds and mortgage transactions appeared from the affidavits of several solicitors of large practice.

The points which arose on the case were—1st. Whether the defendants, Frances Attwood, Maria Attwood, and Catherine Troward, ought not to have retained possession of the title deeds to the estate, as well as of their own mortgage; and whether, by allowing their solicitor, Mr. R. W. Gem, to return them to the defendant, John Attwood (there being no reason, according to the plaintiffs' contention, for such a proceeding), they did not do such an act as to disentitle them to any priority over the subsequent lenders which otherwise they would have had. 2ndly. Whether, if they were justified in giving up possession of the deeds, they ought not to have inscribed notice on them of their mortgage; and 3rdly, Whether the said defendants, by their subsequent acts, had not lost any priority which otherwise they would have had.

Mr. *R. Palmer*, Q.C., and Mr. *Giffard*, for the plaintiffs, cited *Goodtitle* v. *Morgan*, 1 T. R. 755; *Plumb* v. *Fluitt*, 2 Anstr. 432; *Hewitt* v. *Loosemore*, 21 L. J., N. S.; *Allen* v. *Knight*, 5 Hare, and 11 Jur. 527; *Rice* v. *Rice*, 2 Drew. 73; *Evans* v. *Bicknell*, 6 Ves. 174; *Finch* v. *Shawe*, and *Collier* v. *Finch*, 19 Beav. 500, confirmed by the House of Lords, 1856.

Mr. *Follett*, Q.C., Mr. *Selwyn*, Q.C., Mr. *Fooks*, Mr. *Elderton*, Mr. *Amphlett*, Mr. *Morgan*, Mr. *Bevir*, Mr. *Druce*, Mr. *Bagshawe*, and Mr. *Key*, appeared for the defendants.

Waldron v. *Sloper*, 1 Drew. 197; *Worthington* v. *Morgan*, 16 Sim. 547; *Hyams* v. *Holcombe*, 19 Beav. 259, were also cited in the course of the argument.

The MASTER of the ROLLS.—There is nothing like fraud on the part of these ladies. It is impossible to use any expression more inappropriate to them. The state of this case is this:—They were creditors of their brother to the extent of £10,000 each; they did not make any pressure upon him, nor ask for any security; but he voluntarily gave a security for the purpose of securing to them money to which they were entitled. And I may take the case in two points of view, supposing this to be a mere voluntary charge. One question is, whether that charge could be supported, it being created by him merely for the express purpose of affecting the validity of a mortgage which he was about to make with other persons? I think it unnecessary to go into that, because I think, upon the evidence, I may treat this as if it was an arrangement made between Mr. Attwood and his sisters at the suggestion of the family solicitor. He was the solicitor both of Mr. Attwood and of the ladies themselves. Now I do not think it necessary to go through the class of cases which have been cited with reference to what amounts to fraud, or to culpable negligence, because I find an express purpose in this particular case; and, before I go into that, I may state how I dissent on the facts of this case from the conclusion to which Mr. *Bagshawe* wishes me to come, fully concurring with him, however, in the principle of law, that, if a person is entitled to priority as a mortgagee, and has got the deeds, he is not to be deprived of that priority by reason of the misconduct of the solicitor, who might take away those deeds, or give them to other persons, no more than he would be deprived of his priority if the deeds were stolen. He would be in the same situation. But, in my opinion, these deeds were never in the possession of Mr. Roger Gem in the character of these ladies' solicitor; or that, if they were in his possession, they were only in his possession for a moment for the purpose of creating the security. He was the solicitor of Mr. Attwood, who made this charge in January, 1848, in order to secure the claims of his three sisters, and they are informed of it. At the same time they are informed, that, in fact, Mr. Attwood is making an arrangement with respect to his affairs, and that he proposes to make a mortgage for the purpose of securing a particular charge to other persons, and that therefore these deeds are to be in Mr. Roger Gem's possession, as the solicitor of Mr. Attwood, for the purpose of enabling him to make that charge. Then, in that case, it amounts to nothing more than this—that there are certain persons who are creditors of an owner of an estate, who, taking a charge from him, allow him to retain the deeds for the express and admitted purpose of raising money on that property, and of making a charge on it to other persons. I think it impossible for them to say, after that, that that charge is not to have priority over theirs; for they have allowed him (I do not say fraudulently or improperly) to raise money on the property. It is true that they say, that he was to be allowed to raise money on this property for a specific and particular purpose, and only for one particular purpose: but that was clearly a matter which would rest entirely upon his honour whether he did so or not. They allowed all the title deeds to remain in the possession of the person who had given them the charge for the express and admitted purpose of raising money on the property in priority to their charge. He does not raise the particular sum in question; that is to say, he does not give a mortgage to the persons mentioned by him. But, supposing this money had to be applied in payment of such persons, would not the question have been exactly the same? I take it, however, on still broader grounds, for I think that the deeds, being allowed to remain in his hands for the purpose of raising money in priority to their charge, they cannot afterwards complain of the extent to which that money had been raised, but it must have priority over them. They had abundant means of preventing it besides retaining the title deeds. They might have caused an indorsement to be made upon the deed of purchase by their solicitors. When I say they might have done so, of course these ladies knew nothing about the matter; but I am bound to treat them as if they did, because all the acts which their solicitor did, or which he ought to have done, are, in law, what they did, or ought to have done, themselves. He might have made an indorsement on the deed that there was a charge of £30,000 in favour of these three ladies, which was only to be subject to a sum of money to be raised for certain persons by name. If that had been done, nobody would have advanced money on this estate without having had notice of it; and I am of opinion that it was their duty, if they had intended to confine the particular charge which they were to allow to be made to a particular sum, to make such an indorsement. They left it with their brother to raise money, and took his word that he would not raise above a certain amount—viz. £15,000. When I say they took his word, it is not that there was an express statement between them, but it was retained by him for that admitted purpose; and therefore they assumed that he did not intend to raise any more, and did not expect he would raise any more. In other words, they trusted to his honour not to raise a greater amount; but he has thought proper to do so, and to that larger amount I am of opinion they must be postponed. That is my view of the rights of the plaintiffs. I will make a declaration that the Misses Attwood must be postponed to the claim of the plaintiffs; then I shall direct a sale, also giving a direction to ascertain priorities, without prejudice to any question which may exist between co-defendants, or which may exist between any other defendants and the plaintiffs. Mr. and Mrs. Troward stand exactly in the same situation as the Misses Attwood. With respect to Mr. and Mrs. Troward, I think it proper to observe, in reference to an argument put forward for them, which, in my opinion, does not apply to this case—viz. that Mr. Attwood was the sole surviving trustee of the settlement, and that, therefore, he was the proper person to have the custody of these deeds. But, in point of fact, he had not the legal estate in him under the deeds of 1848. The persons who had the legal estate were the two Misses Attwood; and if the legal estate had been conveyed to Mr. Attwood, and he had been made the termor of the purpose of raising this money, the same question might have arisen; but, in fact, Mr. Attwood was only a *cestui que trust* under that deed. It is true, he was a trustee under the marriage settlement, and when he received that money he was bound to hold that money he so received in trust for the persons entitled under the marriage settlement. In any view of the case, I am of opinion that Mr. and Mrs. Troward cannot stand in a better situation than the two Misses Attwood in whom the term was vested for the purpose of raising this money, and that they must be postponed to the plaintiffs. I shall make an observation with respect to the statutory declaration which had been made, and I think it proper to observe, that, in this case, the solicitors for the mortgagee appear to have taken every reasonable precaution which they could take. They had all the title deeds; they had a clear deduction of title, and had nothing to show any mortgage; they obtained the solemn assurance from the mortgagor that he had made no other incumbrances than those stated in the schedule, except certain equitable mortgages created by deposit of the mortgage deeds, which are all answered, not merely by his statement, but by the production of the deeds themselves; and it is obvious, that, in a case of this description, if the plaintiffs had not a good title to this mortgage, it is impossible that anybody could be sure he had got a title, dealing with the most respectable persons, and the most respectable solicitors; and it would necessarily follow, that, except by a registration

of deeds, you could not be certain that you could have the deeds which made out a good title to the property. No doubt the difficulties of the case make it a matter of great importance and a point of honour with the solicitors. I must say, according to my experience, that solicitors invariably do mention the slightest suspicion of a charge when they have got a property which they are allowing another firm to advise their clients either to purchase or to advance money upon; and in that view of the case it is with the deepest regret that I see such a declaration as that made by Mr. Beisly, which obviously was a concealment of a notice which he had distinctly of this charge, and which it was his bounden duty to have given notice of, even without making any declaration at all to solicitors who were advising clients to advance money. It may be consistent with the exact words of the statutory declaration, but it cannot be consistent with the spirit of it, and that which it is obvious was intended to be conveyed to the minds of persons who require it to be made to them. The plaintiffs, therefore, will be entitled to priority over the Misses Attwood's security of January, 1848.

JUDGES' CHAMBERS.—(Before Mr. Baron CHANNELL.)

Sept. 8.

QUESTION OF PRIVILEGE.

Montague v. *Harrison.*

This was a renewed application on the part of General Harrison to be discharged from Whitecross-street Prison, on the ground that he was privileged from arrest in attending the Marylebone Police-court to prosecute certain parties on a charge of felony. The application was before the learned judge on a former occasion, and stood over for an affidavit as to a former summons before Mr. Justice *Wightman.* An affidavit was put in, but it was denied that the question had been fully heard before Mr. Justice *Wightman.*

Mr. *Dixon*, on the part of General Harrison, urged that it was very hard on him to be arrested under the circumstances he had been while attending a police-court.

Mr. Baron CHANNELL asked for an authority for the privilege demanded.

Mr. *Dixon* said, there was, unfortunately, no authority save the general principle of protection. This was the first case of the kind as far as could be ascertained.

A clerk from the office of Mr. Huson, attorney for the plaintiff, asked for the summons to be dismissed.

Mr. *Dixon* urged his Lordship to hear the matter, as he could bring it before him on a writ of *habeas corpus.* The case concerned the liberty of the subject.

His Lordship said he was of the same opinion as Mr. Justice *Wightman*, that there was no privilege, and, therefore, refused to make an order.

The summons was dismissed, without costs.

BANKRUPTCY COURT.—*Sept.* 4.

(Before Mr. Commissioner FANE).

In re Henry Bunney.

The bankrupt, Henry Bunney, formerly a solicitor, was described as a brickmaker, money scrivener, and cattle dealer, at Newbury. He disappeared under very mysterious circumstances from Newbury in November, 1853, rumours of all kinds being rife respecting the position of his affairs, he was not again heard of until 1855, when it was ascertained that he had comfortably "settled down," with his wife and family, as a farmer at Wellington, New Zealand. The assignees under the adjudication of bankruptcy which had been granted against him took the necessary steps to recover possession of the bankrupt's estate, and sent over a warrant empowering Mr. Hart, as their agent, to seize the bankrupt's property, which was done; and the bankrupt instituted proceedings in the Judicial Court at New Zealand for an illegal seizure, in which he was defeated. In no way discouraged, he re-embarked for this country, and carried the matter on appeal before the Judicial Committee of the Privy Council, who, without expressing any opinion on the matter, advised the bankrupt to bring an action at common law, which would decide the issue. The matter was ultimately compromised by the bankrupt foregoing his right of action, on the assignees paying him all costs and expenses incurred in the prosecution of the suit; and he further consented to surrender to his bankruptcy and file a balance-sheet.

The balance-sheet, prepared by Messrs. Paul & Turner, extends from November, 1853, to October, 1855, showing this summary:—Creditors unsecured, £6,124; creditors at New Zealand holding security, £1,373; profit on trading in New Zealand, £1,177; interest due on purchase money of property sold in New Zealand, £536; debtors, good, £1,120; doubtful, £150; property at New Zealand realised, £1,541; and interest due on property sold there, £536; property held by creditors, £2,633; losses on sale of farming implements, &c., at New Zealand, £150; interest, £120; wages, £60; house and personal, £335; deficiency at commencement, £2,744. The sales in New Zealand had been £1,000, and the property consists of 1,200 head of sheep, land, farm implements, &c.

Mr. *Lawrance*, who appeared for the assignees, said the balance-sheet was very unsatisfactory; but as it was impossible to get better accounts, his clients would consent to the bankrupt passing.

The bankrupt then passed his final examination, and obtained enlarged protection to the certificate meeting, which was fixed for the 17th of October next.

(Before Mr. Commissioner FONBLANQUE.)— *Sept.* 8.

In re Kemp & Clay.

This case was adjourned for the purpose of inquiring whether Messrs. Miller & Horn, the bankrupt's solicitors, had received an unfair preference. The case having again come on for re-hearing,

Mr. *Lawrance* (for the assignees) stated, that, since the last meeting, he had communicated with Messrs. Miller & Horn, with reference to the bill of sale given to them by Mr. Kemp, and they had replied that the transaction would bear any investigation, and offered to refer the matter to his Honour for his decision.

The COMMISSIONER.—I would rather suspend my judgment until after the question has been disposed of. It is quite clear there will be a suspension. I have been reading the examinations, and they are not at all satisfactory.

Mr. *Lawrance* said, it would be a satisfaction to creditors if immediate certificates were granted.

The COMMISSIONER.—A satisfaction to creditors! I do not understand that feeling where the expenditure is so great. Mr. Kemp appears to have been at this Court before. He was running his estate a good deal too hard by his expenditure. I shall order an adjournment until November. That delay will certainly be within the period of suspension that I shall award.

Adjourned accordingly.

LEEDS BOROUGH MAGISTRATES.

IS A PHOTOGRAPHER AN ARTIST?

At the Leeds Court House, on Tuesday, before J. H. Shaw and E. Irwin, Esqrs., a young man, named Amos Lambert, appeared to answer a summons charging him with having, on Sunday last, followed his ordinary calling by taking and selling photographic likenesses.—Mr. *Ferns*, who appeared for the defendant, said he was not instructed to deny the facts. The difficulty experienced by the Bench was, whether a photographic artist came within the meaning of the word "artificer" in the Act of Parliament. The words were: "No tradesman, artificer, workman, labourer, or other person whatsoever can exercise their ordinary calling on the Lord's-day." The words "or other person whatsoever" must mean of the same description as those mentioned before; they could not extend to other classes, that was quite clear. That being so, the question was, simply, what was the meaning of the word artificer, and if it included artists? In the Imperial Dictionary, the word "artificer" meant "artist;" and, turning to the word "art," he found that it included "mechanical skill." If the case could be heard at the sessions, the best course would be to raise the question there, by the Bench inflicting a small penalty, so that an appeal might be made. But there was no appeal from the decision of the magistrates, and as they were anxious not to go short of the law, or to go beyond it, they should allow the question to stand over till they had an opportunity of consulting the Recorder, or some other person of eminence, on the point whether the practice of photography came within the meaning of the Act of Parliament.

A petition has been presented to the Vacation Judge in chambers (Sir. *W. Page Wood*) for winding-up the affairs of the London and Eastern Banking Company, and the appointment of Messrs. *Tucker, Greville, & Tucker* as solicitors has been sanctioned. If, as is supposed, preliminary proceedings have been taken for bringing the liquidation of the bank under the Court of Bankruptcy, there may be another contest, like that in the case of the Royal British Bank, for supremacy of jurisdiction; but after what then occurred, it is not probable that any protracted litigation would be suffered. The petitioners who have appealed to the Court of Chancery are Mr. A. Stuart and Mr. G. Duplex, shareholders; and there is consequently every

prospect of the transactions which distinguished the management being fully exposed. An investigation either through Chancery or Bankruptcy is the only proper medium for eliciting the actual facts identified with the loans and operations of Colonel Waugh, the manager, and the secretary — the three principal debtors to the bank.

On Saturday, at the Judges' Chambers, a man, named Henry Moore, stated to be a member of the swell mob, was brought up by habeas corpus from Reading Gaol. The prisoner was committed as a rogue and vagabond by the Windsor magistrates for "sounding" the pockets of several ladies at the Windsor Revel. The objection to the committal was, that the warrant did not state that the "Revel" was a place of public resort, as required by the 5 Geo. 4, c. 29. Mr. Baron *Bramwell* considered that this question had been decided by the Court of Exchequer, and he felt himself reluctantly obliged to discharge the prisoner. Upon being released, the prisoner was immediately taken into custody on a charge of being concerned in a garotte robbery of a Jew, in the Waterloo-road, on the 29th of April last. He was subsequently examined at the Southwark police-court and remanded for a week, bail being refused.

Her Majesty has been pleased to appoint Cyprien Hermodan Dupuy, Esq., to be district magistrate for the island of Mauritius.

Sir John Dean Paul, Strachan, Bates, Robson, Agar, Tester, Saward (*alias* Jim the Penman), together with the notorious swindler Redpath, are on board the Nile, convict ship, which vessel got under weigh from the Little Nore, made sail, and proceeded towards the Downs with a strong south-west wind on Tuesday last.

The University of Durham has conferred the degree of Doctor of Laws upon Sir Samuel Martin, one of the Barons of the Exchequer.

The *New York Post* published a complete list of all who have been sentenced to the extreme penalty of the law in New York county since the year 1784, which were, for a period of 73 years, but 89, an average of a little over one a year. And as this is a much larger number than were executed, the number convicted of capital crimes and pardoned or not hung being 18, it leaves but 20 capital punishments in 41 years.

The Surrogate had given a decision in the *Burdell case*. Mrs. Cunningham, in his opinion, is not the widow of the murdered dentist, and he had directed the issue of letters of administration to the next of kin. Mrs. Cunningham, according to the statement of an inquisitive reporter who visited her in her cell, maintained great coolness. She was of opinion that the Surrogate, though an upright man, had been influenced by her enemies.

A murder had taken place in a dining saloon at New York. Nymus, an actor, met an attorney named Wagstaff, and, some altercation ensuing, the latter struck the former a severe blow. Nymus immediately drew a revolver, and fired two shots into Wagstaff, who immediately fell to the floor a corpse.

In the West Riding the candidates who were unopposed were Mr. Edmund Denison and Lord Goderich, and, perhaps, never were members elected for so large a constituency at a general election at so small a cost in money. The total of the expenses connected with the election of Mr. Denison was only 150*l.* 13*s.* 5*d.* Among the items were—sheriff's expenses, including printing and posting bills, share of hustings, under-sheriff, and bailiff, 61*l.* 11*s.* 7*d.*, and advertising Mr. Denison's address and thanks, 75*l.* 9*s.* The total of Lord Goderich's expenses was 430*l.* 11*s.* 1*d.* Among the items were—sheriff's expenses (same as for Mr. Denison), 61*l.* 11*s.* 7*d.*; printing, advertising, posting bills, carriage of parcels, &c., 170*l.* 3*s.* 1*d.*; "marked copies of the register of voters for canvassers," £125; and election agents for professional service, 46*l.* 3*s.* At Knaresborough there were three candidates—Mr. B. T. Woodd, Mr. Collins, and Mr. Robert Campbell. The first two were elected. Mr. Woodd's expenses were 102*l.* 18*s.* 10*d.*; Mr. Collins's, 38*l.* 8*s.* 3*d.*; and Mr. Campbell's, 49*l.* 18*s.* The two largest items in Mr. Woodd's expenses were £42 for professional services, and £13 for the use of a long room and cab-hire. Mr. Collins has no charge for professional services, and the largest item in his bill is 11*l.* 10*s.* 9*d.* for election auditor's fee, per-centage, advertising, and stationery. The largest item in Mr. Campbell's bill is 11*l.* 16*s.* for refreshment, expenses of candidates, committee, agents, clerks, &c.

During the interval that has elapsed since the former inquiry into the affairs of the Royal British Bank, it is understood that a close investigation has been instituted into all the accounts, with a view to ascertain whether there is any case of securities having been made away with that were deposited with the bank with written instructions, the disposal being contrary to such instructions. This is made a felony by a special Act of Parliament, and Sir John Paul and his partners were convicted under that statute, and sentenced to transportation. At present, it appears that no such case has been discovered. It is said that whenever the trial shall be appointed to take place, the defendants will make an application to be tried separately, the object of this proceeding being to confine the evidence to the particular person under charge, and thus exclude a good deal of evidence as to the fraudulent intentions of the parties and the general combination among them. The application will doubtless be strongly opposed on behalf of the Crown.

JUDICIAL STATISTICS.

The First Part of the judicial statistics for the year 1856, lately issued by the Home Office, comprises Police, Criminal Proceedings, and Prisons. The Second and concluding Part will embrace the statistics of Civil and Commercial Justice. The report only occupies thirty-three pages, and Mr. Redgrave has shown both judgment and ability in the manner in which he has compiled it. But the returns appended occupy 103 pages, and we have serious doubts whether much advantage can be derived from the elaborate details which they contain.

The committals for trial during 1856 exhibit a decrease of no less than 6,535, or 25·1 per cent., following the large decrease of 3,387 persons, or 11·5 per cent. in 1855; so that the decrease in two years amounted to 9,922. This decrease extends over the whole country; and is rendered striking by the fact that it has extended over several years. In 1837 the committals were 23,612, in 1856 they were 19,437. Possibly the decrease during 1856 is to be accounted for in part by the extended power of justices to deal summarily with certain offences. It might have been expected that the almost total abandonment of transportation, and the return of large numbers of idle men from the Crimea, would lead to the increase of offences coupled with violence in a greater ratio than seems to have been the case. This state of things presents a gratifying contrast to what occurred at the close of the war in 1815, when the total of the commitments was immediately doubled, and offences of the gravest description bore their full proportion in that sudden increase. At the same time, it ought to be observed, that the only offences which appear to have increased during the year 1856 are burglary, housebreaking, and shopbreaking—offences with violence—which amount to 23·7 per cent., showing that the same causes which operated in 1815 were not altogether inert in 1856. It is, however, only fair to remark, that, in highway robbery—under which garotte offences are classed—there has been no increase. It seems clear, therefore, that the measures taken to repress crime have not been ineffectual.

The decrease in crime during 1856 seems due chiefly to the diminution in the crimes of theft by servants. In 1855 the committals were 20,000, and in 1856 only 13,000. It is among the females that this decrease is most remarkable, and, no doubt, this fact is to be accounted for by the operation of the Criminal Justice Act. In the more serious offences the female committals have not at all diminished. For some years the female criminals have borne an increasing proportion to the males. Twenty years ago the proportion was under 20 in the 100, but in 1855 it reached its maximum of 30·6 in the 100. In 1856 it was reduced to 26.

It is remarkable how the character of the crime is decided by the character of the agent who commits it. In crimes of the darkest complexion, where the worst passions are roused, the proportion of female to male criminals is much more close than in the other. In 1856, of 82 persons charged with murder, no less than 42 were females; of 41 charged with attempts to murder, 11 were females; of 282 charged with stabbing, wounding, administering poison, and such offences, 45 were females. The same conclusion is apparent from the sentences recorded. In the last ten years, of 96 persons executed, 13 have been females; whereas, on comparing the proportion which females sentenced to transportation or to penal servitude bear to the males, it is much smaller.

Our criminals are mainly the young, the unemployed, and the uneducated. It is certainly an appalling fact that no less than 11,808 males and 2,173 females were committed to prison, and subjected to prison discipline, who were under sixteen years of age; 1,990 of whom were, indeed, children under twelve

years of age. When we regard our criminals with reference to their occupations, it would seem that manual skill, like intellectual and moral culture, is, as a general rule, a preventive of crime. Above one-half of those committed for trial, of whom a large proportion are females, have no occupation, or are classed as labourers, charwomen, and needlewomen. Of mechanics and skilled workers, including factory-workers, the proportion is 21·7 per cent.; and of foremen, overlookers of labour, shopmen, and all above the artisan class, the proportion is only 3·8 per cent.

The French Tribunals.

The decision of the Tribunal of Commerce, by which Auguste Thurneyssen is made liable for his nephew's debts, has excited so much attention in England that we think it may not be uninteresting to our readers to state the grounds of that decision. The action was brought by the Syndic of the bankruptcy of M. Charles Thurneyssen (who in May last fled to America, leaving liabilities to the amount of about 10,000,000f., and assets of only 1,500,000f.), to have that person's uncle, M. Auguste Thurneyssen, one of the directors of the Crédit Mobilier, and that gentleman's son, George Thurneyssen, declared partners of the bankrupt, and as such responsible for his liabilities. The action was based on the allegation, supported by the production of accounts, deeds, and papers, that they, and especially M. Auguste Thurneyssen, had participated for a long time in the operations of Charles Thurneyssen; had brought capital into his bank; and had taken a large share of the profits realised. M. Auguste Thurneyssen opposed the action, on the ground, that, though he had once been a partner of Charles, who is his nephew, he had ceased to be so before the operations which resulted in his bankruptcy, and that of late years he had only been his *commanditaire*. The answer of M. Georges Thurneyssen was, that he was not a partner, but simply an *employé* of Charles, with an interest in his business. The judgment of the tribunal was to the effect, that, on the 20th December, 1837, a partnership for carrying on a bank was regularly formed between Auguste Thurneyssen and Charles Thurneyssen, was continued without interruption from time to time, and that it was never regularly put an end to; that a deed, dated 25th February, 1852, which M. Auguste Thurneyssen relied on to prove that he had ceased to be a partner, and had become a simple *commanditaire*, was null and void, inasmuch as it had not been published according to law; that it appeared that, by correspondence, he had approved of the acts of Charles Thurneyssen, and had even personally given explanations destined to calm the disquietude which had been expressed by one of the most important customers of the bank; and lastly, that as it was proved that a notable part of the liabilities at present known go back to the partnership, and that, on the 31st of December, 1851, that partnership "was in deficit several millions, independently of extensive dissimulations of liabilities, of which the books already allow the trace to be seen," that, consequently, as Auguste Thurneyssen had never ceased to be the partner of Charles Thurneyssen, and responsible for his acts, the declaration of the bankruptcy of Charles Thurneyssen must be declared common to Auguste Thurneyssen, and that the operations of the bankruptcy must for the future be followed in the common names of Auguste Thurneyssen and Charles Thurneyssen, his nephew. With respect to Georges Thurneyssen, the tribunal came to the conclusion that he had never held any other position in connection with the affairs of Charles Thurneyssen than that of a clerk with an interest, and it therefore declared that the demand for including him in the bankruptcy must be dismissed with costs; the costs, however, to be paid out of the bankrupts' estate.

A singular trial has just terminated before the French tribunals in Algeria, which, while it illustrates their peculiar manner of distributing justice, is equally interesting for the picture it affords of Arab manners and character. On the 12th of last September the diligence between Tlemcen and Oran was stopped by Arab marauders. Amongst the passengers was the Aga Ben Abdallah. The other passengers, after a short contest, fled, and when they returned with help, they found in the coupé the dead body of Ben Abdallah, and his secretary mortally wounded lying by his side. The crime, of course, caused great sensation in Oran; and Montauban, the general of the district, urged Captain Doineau, the commander of the district, to discover the murderers. Doineau said, he suspected the tribe of the Beni Nar, and indicated Tlemcen as the home of the criminals. But the widow of Ben Abdallah, breaking through the reserve of the harem, rushed into the street and accused Aga Bel Hadj. She had previously lost three other husbands, and all by deaths equally violent. Bel Hadj, to his Arab cunning, adds the politeness and philosophy of a Parisian. He is an officer of the Legion of Honour, and has been nine years in the service of France. He had been grossly insulted by the murdered man. Shortly after he was arrested, Bel Hadj, and seventeen other Arabs, confessed that they had murdered Ben Abdallah, but that Captain Doineau directed them, partly using his official power, but relying mainly, it is clear, on the force of his personal character. If the eighteen Arabs who made this singular confession were of one story, their evidence would be satisfactory; but it is far from being so. However, they are all placed in the dark, from whence they are alternately called to give evidence against themselves and their comrades. Each day of the trial betrays new contradictions. Bel Hadj is, however, the prince of prevaricators. He tells, on the first day, a circumstantial story, accusing Doineau. On the next day, during the examination of another accusing witness, Doineau exclaims: "Let Bel Hadj be again examined. It is impossible that that man, whom I have never injured, and whose good services to France have won him the rank of Aga, and the decoration of officer of the Legion of Honour, should not return to the truth." This curious way of taking evidence is, it seems, allowed in French courts, and Bel Hadj is called again to confront the Kodja Si Mohamed, who has sworn against Doineau. Bel Hadj is asked again to tell the truth: "Did Doineau command them to kill the Aga?" Bel Hadj hesitates, then turns to the Kodja, and pressing his hands on his breast, and in a voice of remarkable sweetness, says to him, "Now that we are in the face of death, should we accuse the Captain?" This, of course, produces "lively sensation." But the next day the Aga again accuses Doineau; and so he goes on from prevarication to prevarication. The result, however, is, that Captain Doineau has been condemned to death, and his accomplices to twenty years' deportation. Captain Doineau, who is a nephew of M. Billault, has appealed against the decision of the Court.

A curious point has just been decided by the Tribunal of Commerce of the Seine. There is a café at the corner of the Rue Lepelletier, known by the name of the Café Riche, of which M. Garin is proprietor. One of the heirs of M. Riche, the founder of the café, being tired of seeing his name serve for a sign to the café, brought M. Garin before the tribunal to make him resign the name. After a very elaborate argument, the tribunal has decided that a family name is an inprescriptible property, which cannot be alienated but by the will of those who have the right to bear it; and though during many years the heirs of M. Riche have tolerated their name serving for a sign to the establishment in question, they have a perfect right to withdraw that tolerance. M. Garin, therefore, is within a fortnight entirely to remove the name of Riche, and meanwhile is condemned in the costs.

The Court of Assize has condemned (*par contumace*) Ledru Rollin, Mazzini, Massarenti, and Campanella to deportation. When a judgment *par contumace* is pronounced, the intervention of a jury is not required, and it is customary to condemn the absent to the highest punishment which has been inflicted on the accused who were present. As, therefore, Tibaldi was condemned to deportation, Ledru Rollin, Mazzini, Massarenti, and Campanella have had the same sentence pronounced upon them. The proceedings occupied but a short time. There was no address from the public prosecutor, and no defence. The act of accusation was merely read, and, after a few observations from the president, judgment was pronounced.

A very interesting case is shortly to come before the Civil Tribunal in Paris. A Monsieur de M—— died on the 27th of February last, leaving a will, entirely in his own handwriting, which he concludes thus:—"And to testify my affection for my nephews, Charles and Henri de M——, I bequeath to each *d'eux* (*i. e.* of them) (or *deux*, *i. e.* two) hundred thousand francs." The paper was folded before the ink was dry, and the writing is blotted in many places. The legatees assert that the apostrophe is one of those blots; but the heir-at-law, a legitimate son of the defunct, maintains, on the contrary, that the apostrophe is intentional. It will be curious to watch the result of the contest.

Legislation of the Year.

20 & 21 VICTORIÆ, 1857.—*(Continued.)*

CAP. XIII.—*An Act to facilitate the procuring of Sites for Workhouses in certain cases.*

The intention of this Act is to provide for a *casus omissus* in 5 & 6 Will. 4, c. 69. That statute was passed in 1835, in order to remove some difficulties as to the sale and purchase of workhouses and other parish property, under the then existing law; and (among other things) it enabled any lay or ecclesiastical corporation, aggregate or sole, to dispose of, by way of absolute sale or exchange, any lands or buildings for the purpose of a workhouse, or for any other purpose relating to the relief of the poor approved by the Poor-law Board: and it contained provisions for effecting such a transaction, when the owner of the land or building required was "a person idiot, lunatic, or under any other disability," through such person's guardian, trustee, husband, or committee; but it failed to provide for the case of the land or building desired belonging to an ecclesiastical corporation sole (a bishop, for example, or a benefice), and the person for the time being entitled to such land or building in virtue of his office happening to be insane.

The Act under discussion provides for such a contingency, by enacting (s. 1), that, in the event of the guardians of any union or parish—or the managers of any of the school districts established under 7 & 8 Vict. c. 10, s. 40 (as amended by 11 & 12 Vict. c. 82, and 13 & 14 Vict. cc. 11, 101), for the management of infant poor of sixteen years of age and under, chargeable, deserted, or placed in the school of the district by their parents or guardians—being desirous, for any of the above purposes, to purchase or exchange land or building belonging to any ecclesiastical corporation sole, the person entitled thereto for the time being having been found to be insane upon a commission issued under 16 & 17 Vict. c. 70 ("The Lunacy Regulation Act, 1853"), such guardians or managers may petition the Lord Chancellor for leave to purchase or exchange the same accordingly; and, on such petition, the Lord Chancellor may make such order as he shall think proper. But his order, authorising the sale or exchange, will not be sufficient for the purpose, unless there be also obtained, in all cases, the consent of the ordinary having jurisdiction over such corporation (*i.e.* in the case of a parson, the consent of the bishop; and of a bishop, of the archbishop of the province); and, in certain cases, other consents also. Thus—1. In the case of an incumbent of a benefice, the consent also of the patron. 2. In the case of the land or building desired having been purchased, or become appropriated, or annexed to a benefice, by or with the consent, concurrence, or direction of the governors of Queen Anne's Bounty (as to which see 2 & 3 Ann. c. 11), the consent also of such governors. In either of these two cases, the proceeds from the transaction are, by s. 2 of the Act under discussion, to be paid to such governors, and the receipt of their treasurer is a sufficient discharge; and the proceeds are, as the general rule, and subject to any stipulation or agreement as to the expenses of the sale or exchange, to be appropriated by the governors to the particular benefice to which the land or building belonged. On the other hand, in all other cases, the proceeds (by s. 1) are to be paid into the Bank of England, to be placed to the Accountant-General's account to the credit of the corporation sole from which the land or building is bought or exchanged; and thenceforth (by a provision of 5 & 6 Will. 4, c. 69, which is incorporated into the Act under discussion with respect to these cases), the Court of Chancery may, on petition or motion of any claimant, order summarily the investment of such proceeds in the purchase of real estates or of public funds; and the rents and dividends to be distributed according to the respective interests of the claimants; and may make such other order in the premises as shall seem reasonable.

The 3rd section of the Act under discussion has reference to the above proceedings authorised by 5 & 6 Will. 4, c. 69, s. 2; and it provides, that, *until* such reinvestment of the proceeds of the transaction for the benefit of the corporation, the interest, dividends, and annual income thereof shall be applied in like manner as the rents and profits of the land or buildings would have been had the transaction not taken place.

The 4th and 5th sections of the Act under discussion regulate the manner in which the consents required by the Act are to be given—viz. in general, by executing the deed or assurance by which the land or building is conveyed or assured. But there is a proviso, that, in the case of lands or buildings of copyhold or customary tenure, the consent may be under the corporate seal, hand and seal (as the case may be) of each of the consenting parties; such writing to be entered, with the surrender, on the court rolls of the manor. And it is also provided, that, where the benefice from which the land or building is purchased belongs to the Duchy of Cornwall, or has for its patron the Crown, or one under disability, the consent of the patron shall be testified by the persons mentioned by 1 & 2 Vict. c. 23, as to houses for the beneficed clergy—viz. (in the case of the Crown) by the Treasury, if the benefice exceed in yearly value £20, otherwise by the Lord Chancellor; and (in the case of a patron under disability), by the guardian, committee, or husband; but a feme covert must add her written consent as well.

It is noticeable that the provisions contained in the 5th section of the Act under discussion, as to Crown benefices and persons under disability, refer, by its terms, only to the case of the *sale* of lands and buildings under the Act. They are, however, probably intended to extend also to cases of *exchange*.

By s. 6 of the Act under discussion, the meaning of the word "benefice," as laid down in the 12th section of 1 & 2 Vict. c. 106 (the Pluralities and Residence Act), is adopted—viz. a benefice with *cure of souls* as distinct from a cathedral preferment, to which the term in a larger sense extends (3 Inst. 174).

The 7th and remaining section of the Act under discussion incorporates with it the provisions of 7 Will. 4 & 1 Vict. c. 50, as to lands and hereditaments of copyhold or customary tenure, and of 5 & 6 Will. 4, c. 69, as to the conveyance of workhouses, &c., to unions, under the superintendence of the Poor-law Board.

CAPS. XIV., LXXX.—*Two Acts "to amend the Joint-Stock Companies Act, 1856."*

It is necessary to examine these two statutes together—the latter by way of anticipation of its order in the session—as their common object is to remedy the defects of the 19 & 20 Vict. c. 47, or "the Joint-Stock Companies Act, 1856," hereafter called "The Principal Act." By 20 & 21 Vict. c. 14 (hereafter called "the Act under discussion") certain alterations and additions are made in the first, third, and fifth Parts of the Principal Act. These are—1. As to the registration of the company; 2. As to the register of the shareholders; 3. As to the mode of winding up by court; 4. As to the official liquidators; 5. As to the forms authorised by the Principal Act; 6. As to the repeal of statutes in force prior to the Principal Act; 7. As to the temporary provisions of the Principal Act. Besides these, the Act under discussion provides for a subject not dealt with in the Principal Act—viz. 8. Security for costs in certain cases.

1. *As to the registration of the company.*—By the 4th section of the Principal Act, it was, in effect, provided, that not more than twenty persons (other than miners in the Stannaries) should, without being registered or authorised by private Act or charter, carry on in partnership "any trade or business having gain for its object;" and that every of such persons carrying on business contrary to that provision should be liable for the payment of the whole of the partnership debts (as though a member of a trading partnership at common law), and might also be sued for the same without the joinder of the other members. It was made an objection to this provision that it was doubtful whether, by reason of its terms, more than twenty persons, unregistered, and not falling among any of the classes above mentioned, could carry on such business in partnership even at the risks above specified; and, therefore, the Act under discussion repeals the provision, and substantially re-enacts it, leaving out the substantive prohibition. It also substitutes for the words "trade or business having gain for its object," the words "trade or business having for its object the procurement of gain to the partnership."

Again, by s. 13 of the Principal Act, the Registrar of Joint-Stock Companies is directed to certify to any company its incorporation, on registration of the memorandum of association mentioned in the 5th section of that Act. By the 4th section of the Act under discussion, a copy of this certificate can now be procured by *any* person on payment of five shillings.

2. *As to the register of the shareholders.*—By the Principal Act, the capital of registered companies is treated as divided into numbered shares of a fixed amount; and, by its 16th and 17th sections, companies are directed to keep a general register of their shareholders, and to forward annually to the Registrar a list of the shareholders for the current year. The 5th section of the Act under discussion allows shares fully paid up to be converted into stock, and, as to such part of the capital, dispenses with the register and annual list of shareholders. But (by s. 6) notice must be given to the Registrar of an in-

tended conversion of capital into stock, and (by s. 7) a register of the names and addresses of the stockholders is to be kept for inspection at the company's office. Also (by ss. 8 and 9), the provisions in the Principal Act as to remedying improper entries or omissions in the register of *share*holders, and as to the rectification in general of the register, are extended to the case of *stock*holders. Moreover (by s. 10) a penalty of £1 for every offence is laid on a company making default in forwarding to each of its shareholders, who shall apply for the same, a copy of the memorandum and articles of association.

3. *As to the mode of Winding-up by the Court.*—The 11th section of the Act under discussion gives authority to the Court winding up a company, on the application of the official liquidator, to issue a warrant for the arrest and seizure of the property of any contributory about to quit the United Kingdom, or otherwise abscond, or to remove or conceal any of his goods and chattels, for the purpose of evading payment of calls, or avoiding examination in respect of the affairs of the company. Any contributory, however, so dealt with may (by s. 12) apply to the Court for his discharge or for the re-delivery to him of his property; and such order shall be made as seems just. By s. 13 of the same Act, all calls made on contributories under s. 82 or s. 104 of the Principal Act are to be deemed, in England and Ireland, *specialty* debts from the contributory to the company. It may be presumed that the object of this provision is to make the personal estate of a contributory on whom such call has been made, chargeable thereto in the hands of his executor or administrator, in preference to his simple contract debts; and to make his real estate chargeable therewith, in certain cases, in the same priority, through the medium of the Court of Chancery.

4. *As to the Official Liquidators.*—Several changes as to these are introduced by the Act under discussion. By ss. 14 and 15 they are for the future to be appointed with reference to, and as the representatives of, *both* the creditors and the contributories. By ss. 16, 17, and 18 they are intrusted with additional powers to those given them by the Principal Act, with regard to compromising debts, calls, and claims, selling the property of the company in the course of liquidation, and calling together general meetings of such company. After these provisions as to official liquidators, there is (somewhat out of place) an enactment in the Act under discussion (s. 19) to enable the Court winding up a company to adopt, partly or wholly, proceedings previously taken under a *voluntary* winding up. The Act under discussion then reverts to the position of official liquidators; and makes them (by s. 20) liable to a penalty for failing to report to the registrar the decree or the resolution declaring the dissolution or the fair winding up of any company they have been engaged in liquidating, either under the court, or voluntarily; and (by s. 21) constituting them trustees, under 10 & 11 Vict. c. 96—the Act of 1847 for securing trust funds, and for the relief of trustees—with regard to any property of the company they shall find themselves unable to distribute at the expiration of twelve months from the dissolution of such company, owing to the death or absence of the parties entitled thereto.

5. *As to the Forms authorised by the Principal Act.*—The schedule to that Act contains (Table B) certain regulations for the management of registered companies; which by s. 9 of that Act, if there be no regulations prescribed in the articles of association, or, so far as such table is consistent with the regulations annexed to or indorsed on such articles—are to be deemed the "regulations" of the company. But, by the 58th section of that Act, authority was given to the Board of Trade, to make alterations from time to time in the forms and tables of the schedule. By s. 22 of the Act under discussion, however, no such alteration is to affect any company registered prior to such alteration, unless adopted by special resolution of the company.

6. *As to the Repeal of Statutes in force prior to the Principal Act.*—The 107th section of that Act repealed 7 & 8 Vict. c. 110 (the Joint-Stock Companies Act, 1844), the 10 & 11 Vict. c. 78 (for the amendment of the Act last mentioned), and the 18 & 19 Vict. c. 133 (the Limited Liability Act, 1855)—but, so far as regarded any company completely registered under 7 & 8 Vict. c. 110, not till such company registered under the Principal Act. Under this section a difficulty arose as to *insurance* companies, they (together with banking associations*), being expressly excepted from the operation of the Principal Act. Hence the 23rd section of the Act under discussion repeals the 107th section of the Principal Act, and proceeds itself to enact, with reference to the three Acts above mentioned, that they "shall be deemed to have been, and still to remain, unrepealed as to any company completely registered" (*i. e.* under 7 & 8 Vict. c. 110) "which has not obtained registration under the Principal Act, until such time as such company obtains registration under" the Principal Act, or the Act under discussion, "but from and after such time, and not before, shall be repealed as to such last-mentioned company; and, subject as aforesaid," all the said three Acts "shall be repealed." It was, however, later in the session discovered that that section did not meet the case of insurance companies, and therefore was passed 20 & 21 Vict. c. 80, called (as well as the Act under discussion) "An Act to amend the Joint-Stock Companies Act, 1856." By this Act it is enacted, that neither the Principal Act nor the Act under discussion shall be deemed to have been repealed as respects insurance companies already or to be hereafter formed under 7 & 8 Vict. c. 110, or any Act amending the same, or relating to such companies. There is, however, the following provision as to certain particular insurance companies:—Provided, that, if any insurance company formed under 7 & 8 Vict. c. 110, or the directors of, or shareholders in, any such company, have, during the interval between the passing of the Principal Act and the Act under discussion, acted as if the 7 & 8 Vict. c. 110, had, as to such company, been repealed by such Principal Act, then, "so far as affects the mutual rights and relations of the said company, its directors and officers, and late or present shareholders, and so far as affects any penalties which the said company, or its directors, officers, or shareholders may have incurred by non-observance of 7 & 8 Vict. c. 110, the said 7 & 8 Vict. c. 110, shall, as regards the actions of such company, its directors and shareholders, during such interval as aforesaid, be deemed to have been repealed." The result of all this seems to be, that (whatever may have been intended by the Principal Act) the 7 & 8 Vict. c. 110, and 10 & 11 Vict. c. 78, are still the statutes under which all existing insurance companies are regulated, and under which future ones are to be formed. It is to be remembered that companies for assurance are expressly excluded from the Limited Liability Act, 1855.

7. *As to the temporary provisions of the Principal Act.*—After a provision (s. 25) as to companies registered under the Principal Act between 3rd Nov. 1856, and the date of the Act under discussion, and after the repeal of the 110th section of the Principal Act, the Act under discussion (by s. 27) fixes 2nd Nov. 1857, as the date before which companies completely registered under 7 & 8 Vict. c. 110 (except insurance companies), or under the Limited Liability Act, 1855, must register under the Principal Act, or the Act under discussion; and, in default, visits them with certain penalties and incapacities. By s. 29, certain existing companies not required by law to be registered may, nevertheless, register on certain conditions; and by s. 33, the 113th section of the Principal Act is repealed, and, in its place, is inserted a provision, that, on compliance with the requisitions as to registration, the Registrar shall certify to any existing company that it is incorporated as "limited," or otherwise; and it is provided, that the provisions by which such company was formerly regulated or constituted, shall be deemed thenceforth the "regulations" of the company, as if they had been in a registered memorandum and articles of association; and that the provisions of the Principal Act and of the Act under discussion shall apply to such company, with certain reservations and provisoes.

8. Finally, *as to security for costs in certain cases.*—It is provided by s. 84 of the Act under discussion, that, where a limited company is plaintiff or pursuer in any legal proceeding, any judge with jurisdiction, if he has reason to be satisfied that the assets of the company will be insufficient to pay the costs of the defendant, if successful—may require security to be given for such costs, and, in the meantime, may stay all the proceedings.

* *Banking* companies are now regulated under another Act of the present session—viz. c. 49.

Recent Decisions in Chancery.

GAMING—ILLEGAL CONTRACT.

Byers v. *Adams, In re Law*, 5 W. R. 795.

The 18th section of the 8 & 9 Vict. c. 109, renders void all contracts or agreements by way of gaming or wagering, and enacts that no suit shall be brought or maintained in any court of law or equity for recovering money alleged to be won upon wager, or deposited in the hands of a person to abide the event. There have been numerous decisions at law, some of which have tended to throw doubt upon the construction of the very clear and intelligible provisions contained in this section of the statute. We are not aware that the subject has come under the consideration of a court of equity, until the case of *Byers* v. *Adams*. In *Johnson* v. *Lansley* (12 Com. B.

Rep. 468), two persons jointly made bets with third persons on a horse-race. One of the two persons received the money, and gave the other, for his share, a bill for the amount, accepted by a stranger. In that case, the Court of Common Pleas held that the indorsee was not precluded by the 18th section from suing the acceptor upon the bill. "Before the statute," said *Maule*, J., "he would have been bound to pay over the money, and I find nothing in that statute to excuse him from doing so;" and all the judges appeared to be of opinion that there was nothing in the Act to render betting on a horse-race illegal—*Maule*, J., observing that the 18th section treated "the money which is in a man's pocket at the time as the reasonable limit to which he may gamble." In a subsequent case (*Knight* v. *Cambers*, 15 Com. B. Rep. 562) the same Court held, that it was no answer to an action for money paid by the plaintiff for the defendant's use, at his request, that the money was paid in respect of losses on wagering contracts made void by the 18th section. The contracts in that case were for the sale of shares in a company, and, under the circumstances, the defendant contended that the contracts in question were by way of gaming and wagering, and, therefore, void; and that the plaintiff, who was the sharebroker, and had paid the amount of the loss resulting from the transactions, had no right to recover the amount so paid; but *Maule*, J., considered, that, assuming the original contract to have been void, there was nothing to prevent the plaintiff from recovering money afterwards paid by him at the defendant's request; and the case appeared so plain to the other members of the court, that judgment was pronounced for the plaintiff without going into any discussion on the merits of the question. *Fitch* v. *Jones* (5 Ell. & Blackb. 238) is a decision of the Court of Queen's Bench during the same year as the last-mentioned case—viz. in 1855. In *Fitch* v. *Jones*, which was an action on a promissory note, the plea was, that the defendant made the note, and delivered it to the indorser in payment of a bet on the amount of hop duty, and that the plaintiff took it when overdue, and without value; and it was there held, that, although proof that a negotiable instrument was affected with fraud or illegality in the hands of a previous holder raised a presumption that he would indorse it away to an agent without value, the presumption did not arise when the previous holder merely held without consideration; and that a bet, though void, and, therefore, no consideration, was not illegal so as to raise a presumption that the indorsement was without value. In *Byers* v. *Adams*, A. instructed B. to back a horse in £100 for a race, which B. did with C. The horse won, and B., having received the amount of the bet from C., died without paying it over to A.; and the question was, whether A. was a creditor upon B.'s estate for that amount. *Stuart*, V. C., notwithstanding the cases to which we have referred, and other decisions at common law to a similar effect, held that A. was not a creditor. His Honour considered that the transaction was struck at by the express provisions of the statute; and as to the cases at common law, *in which there were acceptances or promissory notes*, he observed that they "could only be accounted for upon the principle that the money was recoverable upon a bill of exchange or promissory note as on a legal consideration." It was, however, properly argued for the person claiming to be creditor that the money had been received from a third person for the use of the claimant, and that it was, therefore, to be considered as held to his use, irrespective of the circumstances under which it was obtained, and that the holder was as much bound as if he had accepted a bill of exchange; but his Honour was of opinion that the language of the section was too explicit to admit of a doubt. That his opinion as to the construction of the statute is somewhat at variance with the views expressed by the common law judges is obvious, we think, from his Honour's statement of its general effect—viz. that the "statute had enacted, in the plainest terms, that courts of law and equity should not *countenance* suits instituted for the recovery of sums of money or other valuable things alleged to have been won on a wager." In this case, however, there could hardly be a doubt, upon the construction of the statute, that A., the claimant, who was the winner of the bet, could not maintain a suit for the recovery of the money won, B. the holder of the money having been the person who, at A.'s request, negotiated the making of the bet.

EXECUTOR—CREDITOR—PUBLIC COMPANY.

Labouchere v. *Tupper*, 5 W. R. 797.

This case, which was a decision of the Judicial Committee of the Privy Council, decided that the assets of a deceased shareholder in a joint-stock company were not liable to creditors for debts contracted subsequently to the testator's death, although the executor continued to hold the shares and receive the dividends during the time which intervened between the death of the testator and the failure of the company—a period of more than three years. The principle of the decision is thus expressed by *Knight Bruce*, L. J., who delivered the judgment of their Lordships:—"The executor of a trader carrying on the trade after his death, though doing so avowedly in the character of executor, is nevertheless personally liable for all the debts contracted in the trade after his death, whether he is entitled or not entitled to be wholly or to any extent indemnified by the testator's personal estate, and whether it is sufficient or insufficient for the purpose; nor does the propriety of his conduct, as between himself and those beneficially interested in the testator's personal estate, give the creditors of the trade, becoming so after the death, the rights of creditors of the testator—it being immaterial, also, as far as they are concerned, whether the testator, if he had a partner, was bound by a covenant with him, that the testator's executors should continue the trade in partnership with the surviving partner. The latest authorities on the point are, we conceive, thus, and appear to their Lordships preponderant and correct."

The case was on appeal from a decree of the Court of Chancery in the Isle of Man; but it was assumed in argument, and acquiesced in by the Bench, that there was no difference between the law of England and that of the Isle of Man as to the principles and rules affecting the question at issue. The decision, therefore, is an important authority in our law, and is an illustration of the manner in which our Courts apply the general doctrines affecting executors in cases now of very common occurrence—viz. where their testators were members of joint-stock companies at the time of their death. The legal year which has just drawn to a close has been prolific in decisions affecting the rights and duties of executors placed in such a position.*

WILL — CONSTRUCTION — "UNMARRIED."

In re Gratton's Trusts, 5 W. R. 795.

There are several reported cases in which Courts of equity have been called upon to construe the meaning of the term "unmarried." In *Hall* v. *Robertson* (4 De G. Mac. & Gor. 781), a gift by will to "unmarried daughters" equally, was held by *Stuart*, V. C., to mean daughters who never married; but, on appeal, the Lords Justices varied the order of the Court below by declaring that the testator intended by the term "unmarried" to point to persons unmarried at the time of making the will, and therefore included a daughter who had married and become a widow between the date of the will and the death of the testator. Their Lordships appear to have been a good deal influenced by the consideration, that, if they did not so construe the will, there might be circumstances in which there could be no division of the property, for all the daughters might become married after the testator's death. Subsequently, however, in *Re Thistlethwaite's Trust* (3 W. R. 466), which was an appeal from the decision of the same learned judge, their Lordships construed the word "unmarried" as meaning never having been married; at the same time being very careful to insist that they arrived at that conclusion from the whole context of the will; and that their decision was not to be considered as settling the interpretation which was in general to be given to the word in wills. In *Re Norman* (3 De G. Mac. & Gor. 967), their Lordships reversed a decision of *Kindersley*, V. C., who held that the expression in a will, "dying without being married," meant without having ever been married. The Lords Justices were of opinion that the true grammatical construction was—dying without the person (a lady) having a husband at the time of her death. In *Re Gratton's Trusts* (5 W. R. 795), a sum of money was given by will to such person as A. C., a married woman, should appoint; and in default, after her death, the same was to go to her next of kin as if she had died "intestate and unmarried." She died without having executed the power, leaving her husband and three children surviving, under which circumstances, *Stuart*, V. C., was of opinion that the intention was to exclude the husband in the event which had happened, and that, in effect, the words used by the testator—viz. "intestate and unmarried"—were equivalent to "intestate and a widow." In all these cases, as in every case where the intention of a testator is to be gathered, not merely from some particular word which he may have used, but from the whole scope of the will, and from the context generally, decisions of the highest courts are not of very great value in construing other wills; but they are very useful to the practitioner who is in the habit of framing such instruments, inasmuch as they call his attention to states of circumstances and

* See *ante* 705

contingencies which may arise, for which it may be proper for him sometimes to make particular provision, or, at all events, to bear them in mind, while he is engaged in giving shape and effect to the intentions of testators.

Professional Intelligence.

INCORPORATED LAW SOCIETY.

(Continued from page 790.)

III. *Practical Improvements.*

Proposed Alteration of Terms, Circuits, and Sittings.—The Council having been favoured with a communication from the Commissioners for inquiring into the arrangements for transacting the judicial business of the superior courts of common law, and the times and places of holding assizes; and the Commissioners having invited the suggestions of the Council on the subject-matters of the inquiry, the Council, with the valuable aid of their Common Law Committee, considered it advisable, in the first instance, to transmit suggestions proposing that there should be three instead of four terms, three circuits for civil business, and three *Nisi Prius* sittings in London and Middlesex.

They subsequently proceeded to consider some of the details for carrying into effect the proposed alterations, and suggested as follows:—

The first circuit to commence about 6th January, and continue till the middle of February. Hilary Term to commence the 14th or 15th of February, and to continue till 13th or 14th March. The sittings in London and Middlesex then to take place, and continue till the 13th or 14th April.

The second circuit from 14th April to 24th or 25th May. Easter term to be abolished, and Trinity to commence the 25th or 26th May, and continue to 22nd or 24th June. The sittings in London and Middlesex to be held from 24th June to about 22nd July.

The third or summer circuit from 24th July to the end of August. Michaelmas term to begin on the 1st November and end on the 27th. The sittings in London and Westminster to commence immediately after Michaelmas term, and continue till the day before Christmas.

It was considered essential in this inquiry to ascertain the opinions of the several committees of the provincial law societies on the proposed changes, and letters were accordingly sent to those societies requesting their opinions on the following points of inquiry:—

1. The advantages to be gained by having three circuits in the year, instead of two.
2. The periods of the year at which the circuits should take place.
3. The discontinuing assizes at small towns, and transferring the business to adjoining places.
4. Re-arranging the assizes, and appointing some to be held at large towns which are now without assizes.
5. The best means of arranging such changes with reference to the time of holding Quarter Sessions.
6. The redistribution of the circuits, either by increasing the number of the circuits, or by re-arranging the length of each circuit, and equalising the duration of the whole.

The Council have been favoured with answers on these points from several of the provincial law societies, and with one exception on the Western Circuit, they have intimated their concurrence in most of the suggestions of the Council, but have added several important recommendations, which have been submitted to the Commissioners.

Several members of the Council, with some of the members of the Society, have attended the Commissioners, and given their views in detail, which will, of course, appear in the Commissioners' Report.

Delays in the Chancery Offices.—Notwithstanding the large diminution which has been effected in the expense and delay of Chancery proceedings by the recent Statutes and Orders of Court, there are still several complaints of delay in conducting the business at some of the offices of the Court.

Although causes are heard, motions made, and decrees and orders pronounced with as much expedition as can be desired on the part of the suitors, consistently with a due and proper attention to their interests, it is the subject of very general complaint that such decrees and orders are not promptly issued and carried into effect. The truth is, that there are numerous delays at the four principal offices where the details of the business of the Court have to be investigated and completed—namely, at the chief clerks' offices, the registrars' office, the taxing-masters' offices, and the Accountant-General's office; and without imputing blame to any of the present officers, the Council are of opinion that the evils complained of require to be redressed, and they have now under their consideration suggestions for expediting the despatch of business in the several offices above mentioned.

Administration of Oaths by London Commissioners.—According to the present practice, commissions for taking affidavits in the several superior courts of common law are issued to every attorney residing at the distance of ten miles or upwards from London; but such commissions do not authorise the administration of an oath within ten miles of London. The consequence of this restriction is, that any deponent residing ten miles or more from London can make an affidavit in any action or other proceeding before the nearest attorney who has obtained a commission, at any hour most convenient to all parties; but if the deponent reside in London, or within ten miles, he must either travel beyond ten miles from London to a commissioner, or must attend the Court, or at the judge's chambers, within certain limited hours. It has therefore been submitted to the Chief Justices and the Chief Baron that the public convenience and the saving of expense to the suitor in common law proceedings would be consulted by granting commissions to a sufficient number of attorneys carrying on business in different parts of London to the distance of ten miles therefrom. The Council have not yet received a reply to their application.

Sheriffs' Fees.—A memorial from several under-sheriffs, setting forth the alterations which had taken place since their fees were regulated in the year 1837, having been presented to the judges, the subject has been taken into consideration by the Council; and the masters of the common law courts have been attended; and, considering the circumstances urged by the under-sheriffs, the Council are of opinion that there should be a complete revision of the whole of the sheriffs' fees; and the scale, when satisfactorily arranged between the practitioners on the part of the suitors, and the under-sheriffs and their officers, might be submitted to the masters for the purpose of obtaining the sanction of the judges.

New Rules and Orders.—The rules and orders of court which have been printed for the Society during the past year, for the use of the members, are as follows:—

In the *Court of Chancery**.

1st February, 1856.—Erasures in Answers, Affidavits, &c.
1st August, 1856.—Obliterating Stamps.
12th November, 1856.—Business of the Judges' Chambers.
15th November, 1856.—Leases and Sales of Settled Estates.
30th January, 1857.—Fees of Solicitors and Fees of Court.
2nd February, 1857.—Service of Notices on Saturdays.

In *Lunacy*.

8th November, 1856.—Office Copies and Costs.

In *Bankruptcy*.

24th March, 1857.—Services of Notices on Saturdays.

In the *Common Law Courts*.

2nd November, 1855.—Costs under Bills of Exchange Act, 1855.
8th May, 1856.—Service of Notices, &c., on Saturdays.
23rd April, 1857.—Judges' Orders for Costs and Satisfaction of Judgments.

In the *County Courts*.

9th October, 1856.—Costs and Charges to be paid to Counsel and Attorneys, as well between Party and Party as between Attorney and Client, under the Provisions of the Statute 19 & 20 Vict. c. 108.

11th January, 1856.—*Examination and Registration Fees.*

(To be continued.)

LAW STUDENTS' MUTUAL CORRESPONDING SOCIETY.

Fourth Annual Report of the Committee, presented to the Members, 9th April, 1857.

It is with pleasure your Committee are enabled to announce in this, their Fourth Annual Report, the continued success which has attended the operations of the Law Students' Mutual Corresponding Society during the past year; and placed upon a still firmer basis such a systematic means of intercommunication between the junior members of the profession as cannot fail to prove most beneficial to those who may avail themselves of the advantages it offers.

The Society now consists of nearly 100 honorary and ordinary members; a considerable increase since last year, notwithstanding the secession of many of the older members from the ranks of the Society, their terms of articles having expired, and

* The Chancery Orders of 18th July, 1857, as to enforcing Decrees, &c., are included in the Collection.

the active duties of the professional life into which they have entered rendering it impossible for them to devote the requisite time and attention to the papers of the Society. It is, however, most gratifying to your Committee to state, that, in nearly every instance of withdrawal, they have received letters speaking in the highest terms of the great advantages derived by the writers whilst members of the Society, one of the most convincing proofs that it is really a most material assistance to the articled clerks in their studies, and most deserving of their support.

The growing importance of the Society has been manifested during the past year by the establishment of a quarterly journal, circulated amongst the members, containing, in a digested form, the most important discussions of the Society, besides other articles of utility and instruction to the law student; and your Committee cannot here omit to express on behalf of the Society their warmest thanks to those gentlemen who have undertaken the labour of preparing and editing the contents of the journal, which, your Committee feel, will be productive of immense advantages to the members of the Society.

Your Committee regret that the steps taken to organise a London section of the Society for *viva voce* discussions did not meet with that encouragement which had been anticipated, and that the meetings were in consequence discontinued; they hope, however, at some future time, to see the section revived, and would earnestly recommend the consideration of such a course to the members of the Society now residing in the metropolis.

Your Committee deem it advisable to draw the attention of those articled clerks who are not at present aware of the existence of the Society, to its principal features and objects. It is designed—first, as a means of friendly intercourse, and for the purpose of engendering feelings of unanimity and friendship amongst articled clerks generally throughout the kingdom; secondly, to supply the wants of a debating society in small towns by affording a medium for the written discussion of moot points on legal subjects, and the composition of essays; and thirdly, by the same means, to furnish opportunities to the student to apply principles to practice, and thus assist him in obtaining a practical knowledge of his profession; and your Committee feel justified in asserting that every member who, actuated with an earnest desire for self-improvement, will give his full attention to the papers of the Society, cannot fail to acquire an extensive and varied knowledge of the law.

With regard to the financial position of the Society, your Committee feel pleasure in stating, that, after defraying all the expenses of the past year, an ample balance remains to the credit of the Society. For the Committee,

CHARLES R. GILMAN,

Norwich, August, 1857. Hon. Secretary.

Correspondence.

EDINBURGH.—(*From our own Correspondent.*)

The next case which has been considered of sufficient interest to merit special notice in this Journal is *Clarke & Others, Wellwood's Trustees*, against *Mrs. Ann Rattray & Others*, 17th Dec., 1856. This case came into court, at the instance of the trustees, in the shape of a multiple-poinding, a form of process resembling interpleader in England, and in which almost every kind of question may be raised and disposed of. The case has come before the court at various times, and upon various points; but we only intend to notice it in reference to the questions brought before the court on the date above mentioned, which included one in regard to the right of the agent for the trustees, who was himself a trustee, to make certain professional and other charges against the estate.

The truster, Mr. Wellwood, died in February, 1847, having conveyed his whole estate to his widow and certain other persons as trustees. The primary trust purposes were to pay his debts and certain annuities, legacies, and provisions, which need not be particularly specified. By the 8th purpose of the trust, the trustees were directed to entail the lands of Foleyhills and Colinton Mains upon his granddaughter, Maria Ann Boswell (or Rattray), and the heirs whomsoever of her body, upon her attaining majority. The trustees were further directed to accumulate the rents and produce of the trust lands so to be entailed, "so long as vested in them," and to pay over the same, along with the residue of his means and estate remaining after satisfying the other purposes of the trust, to his four grandchildren, "equally between them and the survivors or survivor of them, and that at the first term of Whitsunday or Martinmas after the entail of the said lands has been executed."

The trust deed further declared, that, if Maria Ann Boswell married without the consent of the trustees, she should forfeit the estate. She married without asking this consent; but in 1851 the trustees stated, judicially, that they consented to the marriage, and they were directed to entail the estate upon their ward in terms of the trust deed, which was accordingly done. Maria Ann Boswell (or Rattray), the heiress of entail, had attained majority in 1849; she was married in 1848.

The accounts of the trustees were then remitted to Mr. Donald Lindsay, accountant, and Mr. Thomas Ranken, S.S.C., for the purpose of being audited and adjusted, with the view of ascertaining the amount of accumulated rents and residue divisible among the four granddaughters, that the trustees might be exonered.

The trustees in their accounts debited themselves, for behoof of the general and residuary legatees, with the rents of the entailed lands for crop 1849, and the first half of crop 1850; and credited themselves with all payments on account of these lands applicable to the same period. They further credited themselves, as against those parties, with certain other items, including professional and other charges made against the estate by Mr. Sands, W.S., one of their number, whom they had appointed to be their agent, factor, and cashier. The rents above mentioned were credited against the residuary legatees in consequence of an arrangement which had been entered into with the view of avoiding a question which arose as to when Maria Ann Boswell (or Rattray) became entitled to these rents, in consequence of not having obtained the consent of the trustees previous to her marriage.

Mrs. Hill, one of the residuary legatees, and her husband, besides objecting to the board allowed to Mrs. Rattray, objected to the following items of charge in the trustees' accounts:—1st. The expense of a new cattle-shed on the farm of Colinton Mains, part of the estate entailed on Mrs. Rattray (Maria Ann Boswell)—on the ground that it was beyond the power of the trustees to make such an application of the trust-funds, and so favouring the heiress of entail to the injury and damage of the residuary legatees, seeing that there was no legal obligation on them to make any such expenditure. 2nd. The charges for making up the title to the entailed estate—on the ground that it was chargeable against Mrs. Rattray. 3rd. The charges made by Mr. Sands for commission and professional trouble—on the ground that he was not entitled, being a trustee, to make such charges; and 4th. The amount of interest allowed by Mr. Sands on the trust funds retained in his hands—on the ground that he was not entitled to mix up the trust funds with his own, but was bound to have placed them in bank, upon separate account, in name of the trustees.

In regard to the first objection, it was answered that the expenditure objected to was proper in itself, and was truly a charge against the rents, which Mrs. Rattray had given up; to the second, that the expenses referred to were incurred in carrying out the directions of the truster, and were part of the expenses of executing the trust; to the third, that the business charged for was all necessary business, and was for work done over and above Mr. Sands' fair share of duty as a trustee, and must have been incurred to another agent, if he had not been employed; to the fourth, that Mr. Sands had not retained funds longer than was necessary to collect them, for the purpose of meeting the obligations of the trustees.

The Lord Ordinary, on 17th February, 1855, pronounced the following interlocutor:—Finds that both parties have "expressed their adherence to the arrangement made on 26th February, 1852, by which the additional claim of Mrs. Rattray was disposed of; and, having considered the objections taken to the accounts of the trustees, repels the objection taken to the charge in the trustees' accounts for £115, expended in December, 1850, in building a cattle-shed on the farm of Colinton Mains." Then follow some findings relative to the rate of board, which are not important; after which the interlocutor proceeds as follows:—"Finds that Mr. Warren H. Sands, himself a trustee, acted as factor, cashier, and law agent for the trust, and that his accounts, after due examination, have been found to be sufficiently vouched, and to be reasonable in amount. Finds that Mr. Sands is not entitled to charge any commission or factor's fee against the trust estate for his management as factor and cashier. Finds, that, in so far as Mr. Sands' accounts as law agent have been incurred in the conduct of suits in which the trustees were parties, and he acted as agent for the trust in the suits, he is entitled to make a charge against the trust estate for his professional remuneration; but that, in so far as his said accounts have been incurred in the administration of the affairs of the trust, apart from judicial proceedings, Mr. Sands is not

entitled to claim against the trust estate any professional remuneration, but only to be reimbursed his outlay. Repels the objection by the claimants to the charge for £25, paid to Mr. Gardner, the agent of the heiress of entail, for his business account in the execution of the entail, which, by the terms of the trust deed, the trustees were bound to execute, and to that extent sustains the charge against the trust estate." Then follows a finding of consent; and lastly, "Finds, that, under all the circumstances, the interest chargeable against Mr. Sands during his management has been fairly stated in the accounts, and that no higher interest is exigible." With these findings, appoints the case to be put to the roll, &c.

To this interlocutor the Lord Ordinary (*Ardmillan*) added the following note:—"The point of difficulty in this case relates to the business accounts of Mr. Sands, W.S., who, being himself a trustee, was factor, cashier, and law agent to the trust. He had been previously agent for the family, and was well acquainted with the affairs. He was one of several trustees; and when he was appointed factor, a quorum was left to control him, and his management has been satisfactory to all the trustees, and favourably reported upon by Mr. Donald Lindsay and Mr. Thomas Ranken. It is, accordingly, a hard case for the application of the rule, that a trustee shall make no profit by his office; and it is not without some hesitation that his professional remuneration as law agent has been limited to charges for agency in judicial proceedings. But the general rule of law is now settled, and it has been declared by the highest authority to be important and salutary. The case of *Horne* against *Pringle* was decided in the House of Lords, on June 22, 1841 (2 Rob. App. p. 384); the case of *Seaton* against *Dawson*, in this court, on Dec. 18, 1841 (4 Dun. 319); and the case of *Cullen* against *Baillie*, on Feb. 20, 1846 (8 Dun. 517). And the promulgation of the rule, at least within the legal profession, must be viewed as complete before the date of Mr. Wellwood's death, on Feb. 25, 1847. So that the administration of this trust commenced after the rule had been judicially announced and enforced—in this respect differing from the case of *Miller's Trustees* against *Miller*, Feb. 23, 1848 (10 Dun. 765): A sum of £50 was bequeathed to each of the trustees; the beneficiaries are many of them in minority, and there are no grounds for inferring adoption or homologation of the agency of Mr. Sands as professional, and to be remunerated, so as to bring the case within the operation of the principle recognised, under special circumstances, in *Ommaney* v. *Smith*, March 3, 1854 (16 Dun. 721). It was contended by the trustees, that, Mr. Sands being one of several trustees, and there being a quorum without him, he is not within the general rule; and the case of *Cradock* against *Pyper*, Jan. 18, 1850, was strongly founded upon in support of this argument. But after careful consideration of the decision, in *Cradock* v. *Pyper*, by Lord *Cottenham* (1 Hall and Twells' Chan. Rep. p. 617), as well as the previous case of *New* v. *Jones*, Aug. 8, 1833 (reported in a note to the report of *Cradock* v. *Pyper*, as above, p. 63), decided by Lord *Lyndhurst*, when Chief Baron, and the more recent case of *Lincoln* v. *Windsor*, July 9, 1851 (20 Law Journ. Chan. Rep. p. 531), decided by V. C. *Turner*, the Lord Ordinary has felt himself unable to recognise any ground of exception from the general rule, in the mere fact that the trustee acting as agent is not a sole trustee, but one of several. In the case last mentioned, the point is expressly referred to by the Vice-Chancellor, and no ground for this distinction is recognised; and in the case of the *Bon Accord Assurance Company* v. *Souter's Trustees*, June 13, 1850 (12 Dun. 1010), the claim for professional remuneration was rejected, though there were several trustees. A distinction in regard to agency in a suit, where the trustees were parties, where a law agent must have been employed, and where the costs of the estate have not been augmented, seems to have been recognised in England, and also in the case of *Tindlay's Trustees* v. *M'Onie*, March 6, 1852 (14 Dun. p. 621); and to this exception effect has been given in the present case." Then follow some general remarks which are not important.

Both parties reclaimed, and were heard on their pleas—nothing was said as to the rate of board. The other objections above-mentioned were fully discussed.

The Lord President, with whom Lords *Ivory* and *Curriehill* concurred, in delivering judgment, said, the points which the Lord Ordinary had decided are various, and may be taken in the same order as he has taken them. The first objection disposed of relates to the sum expended in building the cattle-shed on Colinton Mains, in Dec. 1850, viz. £145, for which the Lord Ordinary has allowed the trustees to take credit. His Lordship then stated fully the circumstances under which the expenditure was made, and those under which the arrangement took place, whereby the rents for the first half of crop 1850 and previous years were surrendered to the general residue and continued:—"It appears to us, upon the whole, that his Lordship is right. The arrangement between the landlord and tenant was a most proper one. The rents out of which the expenditure was allowed to be retained were those of 1849. These rents would have belonged to the heiress of entail if the question as to the date of her succession had not arisen, and would have borne the charge. As a matter of compromise, she surrendered these rents; and it must be held that she surrendered them as they stood at the time—that is, subject to the charge upon them arising out of the arrangements between the trustees and the tenant which had been previously concluded."

The next question is as to Mr. Sands' accounts. This must be settled by the recent judgments of the whole Court in the cases of *Douglas* and *Dundas*. The broad principle sanctioned by these cases is, that a trustee is not entitled to place himself in a position which may give him an interest possibly adverse to the estate, and so prevent him from discharging his duties faithfully, by giving free and unbiassed advice. With the exception, therefore, of outlay, Mr. Sands' charges must be disallowed, and that part of the Lord Ordinary's interlocutor will be altered.

Then, as to Gardner's account: There does not appear to be any ground for charging it against the general estate. The trustees were ordered to make an entail of certain lands, and were bound to execute that entail; and they were entitled to employ Mr. Gardner, if they thought fit, but always at the expense of the estate to be so entailed.

Lastly, there is the question of interest, which is important as a question of principle. Mr. Sands was acting as agent for the trust, and he was one of the trustees. I assume that it was necessary, for the purpose of the trust, to have a command of funds, and so balances arose. Mr. Sands has given the trustees credit for the same rate of interest on these balances which they would have got if they had been deposited in bank; but he does not appear to have accumulated the interest. It is contended, that, being a trustee, he was not entitled to keep trust funds in his hands; that, having done so, he must pay the highest rate of interest; and that the interest must be periodically accumulated. In some cases it may be very important to enforce this rule, for the funds may be put in peril. It may not be easy to ascertain what are the trust funds if mixed up with the private funds belonging to a trustee. The perils are considerable even in regard to persons whose affairs appear to be flourishing. This applies not merely to an agent who may happen to be a trustee, but to merchants and all others who may be factors on an estate. The party who may be acting as factor or agent for a trust may be undoubtedly solvent, but the Court cannot draw distinctions. The only safe course is for a trustee to separate the trust funds from his own, and to keep them on separate accounts. If he does not take that course, he must submit to have a high rate of interest charged against him. On the other hand, if he advances money on account of the trust, he will be allowed to charge bank interest.

The Court pronounced an interlocutor, which, besides disposing of the question in regard to the rate of board, and some other matters of no interest, contained the following findings:—"Recall the findings in the said interlocutor in reference to the accounts of Mr. Warren H. Sands, or Messrs. Sands, as law agent or law agents, for the trustees and trust estate in the conduct of suits in which the trustees were parties. Find, that Mr. Warren H. Sands, himself being a trustee, the business charges in the accounts of himself, as law agent, and those of Messrs. Sands, as law agents, of which firm Mr. W. H. Sands is a partner, cannot be sustained except to the extent of costs out of pocket, and except to that extent that Mr. Wellwood's trustees are not entitled to credit for the business accounts of Mr. W. H. Sands or Messrs. Sands, and sustain to that extent the objection of Mr. and Mrs. Hill. Recall the said interlocutor in so far as it repels the objection by Mr. and Mrs. Hill to the charge of £25 paid to Mr. Gardner, the agent of the heiress of entail, and sustain their objection to that charge. Recall the said interlocutor in so far as it has reference to the interest chargeable against Mr. W. H. Sands during his management. Find, that, in the circumstances of the case, Mr. Sands falls to be charged with interest at the rate of four per cent. per annum on all trust moneys in his hands from time to time, and that his trust accounts fall to be balanced annually, so that the yearly balance, on whichever side of the account it may be, may bear interest. *Quoad ultra*, refuse the prayers of both of the notes, and adhere to the interlocutor reclaimed against and decern," &c.

It ought to be observed, that four per cent. is the current rate of interest obtained for money standing upon such securities as the Court will allow trust funds to be invested upon.

STAMPS ON ARTICLES OF CLERKSHIP.

To the Editor of THE SOLICITORS' JOURNAL & REPORTER.

By the 7 Geo. 4, c. 44, the Commissioners of Stamps are prohibited from stamping articles of clerkship after six months from the date thereof. Within the six months, the Commissioners invariably allowed the articles to be stamped on payment of £5.

I am informed, that, under the 19 & 20 Vict. c. 81, the Commissioners now refuse to exercise their former powers of stamping such articles, upon a £5 penalty, within the six months, and require the payment of £10 at any time within a year, with interest on the duty from the date of the instrument.

Now, I submit that the 19 & 20 Vict. c. 81, does not repeal the 7 Geo. 4, c. 44, where the articles are brought to be stamped within the six months. The 3rd section of the new Act authorises the Commissioners, notwithstanding the former Act, in any case where they shall be directed so to do by the Treasury, to stamp such instruments on payment of the penalties specified—viz.

As to instruments executed before Aug. 5, 1853	£20
Any other such instruments brought to be stamped within a year	£10
After one year, and within two years	£20
After two, and within three years	£30
After three, and within four years	£40
After four years	£50

But, in all these instances, the stamp can only be affixed where the Commissioners shall be directed so to do by the Treasury. Under the former Act, no such previous authority was required from the Treasury; and I submit, that, the former power of the Commissioners not being expressly repealed, they may exercise it without giving the applicant the trouble of memorialising the Treasury. A SOLICITOR.

JUDICIAL SEPARATION—RIGHTS OF WIFE.

To the Editor of THE SOLICITORS' JOURNAL & REPORTER.

SIR,—By s. 25 of the Divorce and Matrimonial Causes Act it is enacted, that, after a "judicial separation" of husband and wife, the wife shall, whilst the separation shall continue, be considered as a feme sole with respect to property of every description *which she may acquire, or which may come to* or devolve upon her, and that she may dispose of the same as a feme sole. This clause has reference only to future acquired property; therefore, I conceive that no conveyance of the real property belonging to the wife prior to, or acquired after, marriage, but before the judicial separation, can be made without the husband's concurrence, which would be necessary to get rid of his life interest, and also of his claim as tenant by the curtesy. The Act does not provide any machinery to meet such a case, nor does it appear to me how it well could, when the parties may, if they like, again cohabit. As to such property, it would seem that, unless settled on the wife, she will be unable to dispose of it during her husband's life, or that she can only do so by effecting an arrangement with him, which, under the circumstances, might be a very difficult matter.—Your obedient servant, ROBERT WHEELER.

Cheltenham, September 10, 1857.

"ABUSE THE PLAINTIFF."

To the Editor of THE SOLICITORS' JOURNAL & REPORTER.

SIR,—I am happy to see how heartily you and the press, and the profession generally, concur in the sentiments of C. J. *Cockburn*, in his summing-up to the Chester jury, upon the disgraceful practice in low barristers of abusing attorneys. But I am anxious that the peculiar instance of *Nisi Prius* eloquence the Chief Justice so eloquently reprobated should not be taken as a specimen of the eloquence of the Chester bar. The counsel in this case was "special." Some time since he distinguished himself in an arbitration case in this neighbourhood by the fluency of his declamation and his vituperation of the opposing party—a magistrate of the county, and a large landed proprietor. During his conduct of that case, upon the non-appearance of the clergyman, he extemporised a sermon in a national school-room. His clients, I believe, having strong faith in the omnipotence of mob-oratory, retained him solely for his speech; how widely they miscalculated when they supposed that the Chief Justice and a Cheshire special jury were to be wrought upon by the frothy declamation which sways the unwashed mob, the result has shown. Let the loud-mouthed denunciators take warning by it, and, when they have a bad case, learn, that, though they are fortified by wig and gown, they are not to indulge with impunity in such language towards a gentleman as would disgrace the walks of private life.—Yours obediently,

AN ATTORNEY OF THE CHESTER CIRCUIT.

Review.

The Parish: its Powers and Obligations at Law, as regards the Welfare of every Neighbourhood, and its Relation to the State; its Officers and Committees, and the Responsibility of every Parishioner. By TOULMIN SMITH, of Lincoln's Inn, Esq., Barrister-at-Law. Second Edition. London: Sweet.

A new edition has recently appeared of Mr. Toulmin Smith's work on "The Parish." It is an able and original work; and its learning makes it valuable, not only to the professional lawyer, but to all whose occupation it is to inquire into the history of the local institutions of England, or to assist in their management. As it is strongly coloured by a particular theory, care must be taken not to be led away by the author's vehement language when we have to refer to it for particular details, and apply practically its contents. This theory amounts to the proposition that the local institutions of England, at a period of time unascertained, but, probably, not long after the Conquest, were absolutely perfect, and that we ought to return to them, and reject every modern alteration which the folly of the last six or seven centuries has introduced. We could not examine this theory in its general aspect without being led into a long political discussion, and we, therefore, prefer stating some of the principal facts to which Mr. Smith is most anxious to call attention, and some of the principal subjects with reference to which his work will be found serviceable.

"An examination," says Mr. Smith, "of the most authentic records shows that the parish is the original secular division of the land, made for the administration of justice, keeping the peace, collection of taxes, and the other purposes incidental to civil government and local wellbeing." Town, parish, and vill all mean the same thing; they are the integral divisions of hundreds. It was through the parish that the taxes were collected by the Crown. The parish was governed and represented by a head known under different names, such as headborough or provost, and four domesmen. These five persons assessed on oath the amount of tax to be levied on the parish, and were responsible for its being raised. Domesday Book is the return made by the domesmen of each parish. They were also responsible for crimes committed, or nuisances permitted, in the parish; and had to attend before the local courts of the shire to answer for their conduct. Nothing, as Mr. Smith repeatedly insists, can be plainer than that the parish is a purely secular institution; and it was only by degrees that priests became attached to the existing divisions of the land. Each parish had power to make its own bye-laws; and the vote of the majority of the parishioners was sufficient to give these local laws validity. A church-rate, for instance, is only enforceable because it is ordered by a bye-law of the parish. All persons occupying land or other premises were parishioners, the villeins as well as the lord: all had a right, and were considered morally bound, to attend the vestry or general meeting of the parishioners, and there the chairman was, and is, in every case, elective; and the minister has no better claim than any other parishioner to fill the office. A division of those present is the proper way of ascertaining the wishes of the majority of the parishioners, and a poll is a modern innovation. It is one which Mr. Smith views with the greatest regret, as he does also the change introduced by Sturges Bourne's Act, which gave a plurality of votes to the rich.

The portion of the book which treats of Churchwardens may be taken as a fair sample of the rest, and its contents suffice to show what is the kind and what the extent of information to be looked for in this volume. Churchwardens have succeeded the provost or head of the town as chief officers of the parish. They were never ecclesiastical officers; and Mr. Smith very properly thinks it of the highest importance to establish this point beyond a doubt. Churchwardens are temporal officers chosen by the laymen of the parish to "take charge of things of temporal estate." Thence they were originally called "Wardens of the goods," and under this description appear in the Rolls of Parliament as early as the 15th of Edward III., and in the Year Books as early as 1410. There can be no doubt that the churchwardens were, as a rule, with very few exceptions, chosen by the parishioners, and the theory of their office would certainly exclude their being chosen by any one else.

But in 1603 a canon was published by which it was declared that the appointment of one churchwarden should rest with the parson. This canon did not bind the laity in any way, but the parsons claimed to exercise the right it purported to confer, and in many parishes the claim was not resisted, as it might have been most successfully, by an appeal to the courts of common law; and the custom has thus sprung up in many parishes of the parson appointing one churchwarden. Mr. Smith raises the question whether this custom can now be upset. Of course, he admits that it can only be upset where parish minutes and records exist, which will show conclusively, that, up to the beginning of the 17th century, the parishioners elected both churchwardens; for, otherwise, the custom would not be on the face of it illegal, for it is certain, that, before the date of the canon, the custom had already established itself in a few parishes. But we cannot feel so sure as Mr. Smith seems to be, that the Court of Queen's Bench would upset the custom, even if it were proved to be of later origin than the canon; for the custom is not bad in itself, and is now two centuries and a half old. Mr. Smith says, that it cannot be upheld, where a probability exists that it was first established owing to the parishioners being deceived as to the legal force of the canon. But it seems to us unlikely that the Court of Queen's Bench would remedy such a mistake after so great an interval of time. Certainly, it is to be regretted that the churchwardens should, in any case, be nominated by the parson. For they have now succeeded to the office originally held by the sidesmen—that is, the representatives of the laity in the synods—whose duty it was to present an information against the parson if any cause of complaint existed against him; and it is absurd that the parson should himself appoint one of the officers who is to watch over his conduct.

On a cognate point, Mr. Smith brings forward a great amount of learning, and uses language of considerable vehemence. This point is the assumed right of the parson to preside at vestry meetings. Mr. Smith shows, and, as we think, conclusively, that no such right exists. The leading case on the subject is the well-known one of *Houghton* v. *Reynolds*, decided in 1736, where a vicar assumed to occupy the chair, and, in virtue of his assumed right there, further assumed the power of adjourning the vestry. The Court of King's Bench decided that he had no right to adjourn or to preside. But in 1819, in the case of *Wilson* v. *Macmath*, the King's Bench refused to grant a prohibition against the Ecclesiastical Court entertaining the question of the right of a vicar to preside, because, in that case, the meeting had been held in the church, and the Ecclesiastical Court decided that the parson had a right to preside. However, the question has finally been settled by the highest court. The *Braintree case*, decided by the House of Lords, determined that a prohibition will issue although the meeting is held in a church. We are thus brought back to *Houghton* v. *Reynolds*, which was only departed from in *Wilson* v. *Macmath*, because it was supposed that the place of meeting made a difference. We think it very satisfactory that Mr. Smith has cleared up this point. When the law is once clearly understood, there is no difficulty or ill-feeling created in parishes by such questions as that of the parson's right to preside in the vestry. Let it be clearly understood that the parson has no more right to preside in any vestry meeting, held in any place, or for any purpose, than any other parishioner has, and he will fall, without the slightest bad feeling on any part, into his proper place as one of the principal inhabitants.

The Chapter on Constables shows more conspicuously, perhaps, than any other, what is Mr. Smith's theory of the position of a parish in modern England. The constable was originally the same as the provost, and, thus, the principal parish officer. It was the duty of the parish to keep watch and ward over all its members; and the parish was considered responsible if any violence was committed within its bounds, and the offender was not brought to punishment. The constable was charged with the task of maintaining watch and ward within the bounds of the parish. If an offender escaped beyond the bounds of the parish, the constable was to raise the "Hue-and-Cry;" which he did, practically, by informing the constables of the adjoining parishes that the offence had been committed, and the offender had got away. The parish and the constables were kept up to the performance of their duties by periodical courts of inquiry, and the place or the officers were liable to be amerced if the ends of justice had been defeated through their negligence. "The constable was thus," says Mr. Smith, "the constitutional public prosecutor." The system was, he conceives, complete. Offences could not be passed over, because it was the interest as well as the duty of every one in the neighbourhood to lend assistance in the discovery, and there was always an official ready to commence and conduct the inquiry. In no particular has the old parochial system been more invaded in recent years than in the arrangement of the constabulary force; and under no head, therefore, is Mr. Smith so warm in his denunciations of modern changes as when treating of the substitution of county police for parish constables. Whether, now that locomotion has become so easy, and thieves are so expert, the system of one parish constable telling another that the thief is gone, is likely to prove practically sufficient, is a question into which Mr. Smith does not enter.

No one can read Mr. Smith's book without being persuaded of its great value; and a sound knowledge of parochial institutions was never more needed than at the present moment. The fault of the book is, that it never really discusses the effects which the altered state of modern society must have on ancient institutions. Mr. Smith does, indeed, say that adaptation, as he terms it, is the great principle of parochial life; and that the parish, while retaining all its essential characteristics, should adapt and alter its method of operation and sphere of duties according as new exigencies arise, and new means are supplied for meeting the demands of a growing civilisation. That this is altogether practicable we do not feel convinced by the reasoning which he brings forward. But we may say safely, that centralisation has gone too far in England already, and that its further progress should be most jealously watched. These, however, are political rather than legal considerations. But the great majority of parochial difficulties are not disputes between the parish and the State, but between different parts or members of the same parish. These difficulties can only be surmounted if persons who take an active part in the guidance of the parish, or in discussing its affairs, inform themselves what the law on the subject is. Mr. Smith's book has the great and rare merit, that, in it, the portion of law with which it deals is treated historically and, therefore, soundly. It is only by historical knowledge that English law can be illustrated and explained. When once we have thoroughly impressed on our minds the legal theory of the parish, and traced its historical formation and composition, the details on which particular circumstances compel us to enter are easily comprehended. We can only hope that Mr. Smith's book will be widely and carefully read. It is one of the few law books that belong as much to the lay as to the professional reader.

Roman Catholic Charities Report.

The Select Committee of the House of Lords, appointed to consider the Roman Catholic Charities Bill, have reported to the House. They state that the committee have met, and proceeded with the consideration of the Roman Catholic Charities Bill (H. L.), and also of the petition referred to them, and that they have examined witnesses, with a view to satisfy themselves how far the complaint contained in the said petition, praying for more extensive relief as to Roman Catholic charities than was proposed by the Bill, rested on any solid foundation.

The committee accordingly examined Mr. Bagshawe, who is an eminent Queen's Counsel, and also Mr. Harting, a very respectable solicitor. Both these gentlemen are Roman Catholics; and the result of their evidence is, that all or very nearly all the Roman Catholic charities in this country are mixed up with what has been decided in the Court of Chancery to be a superstitious use; and that therefore they are, in all probability, absolutely void and illegal. A bequest of money to be paid to a priest for saying prayers and celebrating masses for the soul of the testator was decided by Lord *Cottenham*, in *West* v. *Shuttleworth*, to be bad, as a superstitious use.

The evidence taken before the committee shows that a condition to pray for the soul of the founder of a Roman Catholic charity is sometimes expressly, always impliedly, annexed to every charitable foundation. The petitioners point out that it is part of the devotional practice of the Roman Catholic Church to offer up prayers for the dead, and that such prayers are offered up daily in all prayers, and at all masses, forming always a part, as well of private as of public devotion. The petitioners therefore urge, that, as the exercise of the Roman Catholic religion is now freely tolerated, the doctrine of superstitious uses, so far at least as relates to the praying for the souls of the dead, ought not to be held to attach to their charities, so as to affect their validity, and therefore that the Bill ought to go the length for which they contend—namely, to make all their charities valid where their invalidity consists solely in their having infringed the law relative to superstitious uses.

The committee, without expressing any opinion on this claim, yet feel that it is one entitled to a grave and deliberate consideration, and they recommend that in the next session of Parliament the subject should be inquired into, when there will be full leisure to investigate it.

The following is an abridgment of Mr. James Vincent Harting's evidence:—

I am a solicitor, and a Roman Catholic. I have been very familiar with the Roman Catholic charitable endowments for the last ten years. I have heard the evidence which has been given by Mr. Bagshawe. He states, that, in his opinion, from his acquaintance with the Roman Catholic charities, they all, or almost all, contain, expressly or impliedly, an obligation on the parts of the recipients of the charities, or the priests connected with them, to pray for the souls of the founders. That is so; it is not only the fact, but it is the law of the Church; so that, if prayers were not made for the founder, the next of kin or the heir of the founder would have a right to go to the bishop and require his interference, in order to enforce the saying of those prayers, not merely by reason of the condition annexed, but as a condition imposed by the very nature of the gift. Some of these charities date back as early as the beginning of the seventeenth century. As regards endowments, I am almost disposed to say that more than one-half would date back before the commencement of the last century; and that brings me to notice an Act which has not been referred to—namely, the 1 Geo. 1, st. 2, c. 50, by which all Catholic property given to superstitious uses was vested in the Crown absolutely by force of that Act, without office found, so that some remedy must be provided for that, or we cannot think of registering the deeds. I would take leave to add to what Mr. Bagshawe said, this observation: The 2nd clause of the Bill, as now drawn, proposes to validate all our charities upon the inrolment of the deeds constituting those charities. Now, besides the indorsements which those deeds bear with reference to the subject-matter of the next section—namely, the superstitious use—there are other indorsements; those deeds relate, in some instances, to a variety of property, some of which has been lost by the apostacy (I do not use the word offensively, but in a Roman Catholic sense) of those to whom it was confided; and memoranda may be made of that apostacy. Your Lordships know, that, until a very recent period, premiums were offered to children, by conforming to the established religion, to dispossess their parents. Records of those facts remain; and the bishops would be very sorry, by inrolling these deeds, to bring up a number of matters, which, of course, would cause great pain to families, and families of much account now in the kingdom. Therefore, I would suggest, that, instead of inrolling the original deed, a copy might be inrolled, unless the precedent of the 9 Geo. 4, c. 85, was followed, which validated all deeds for charities (we were not then within the law, and, therefore, could not take advantage of it), although no inrolment had taken place under the Act of George the Second. If that were done in our case, it would relieve us from a great deal of trouble. If that were not thought convenient, then there might be the option, instead of being required to inrol the original deed, of inrolling either the original deed or the deed declaring the trust.

Lord WENSLEYDALE.—You agree that the principal thing which you want is to legalise the saying of masses for the dead? To take away the legal objection arising from what are called superstitious uses. I should mention that there are two classes of superstitious uses, one arising out of the supposed policy of the law as expressed in the Act of Edward the Sixth, and the other arising under the 23rd of Henry the Eighth, c. 10, which prohibits the endowment of any church or chapel, or any similar object, for any purpose, for more than twenty years. So recently as 1818 or 1819, a case occurred before Lord Chief Justice *Abbott*, the case of *Doe* on the demise of *Wellard* v. *Hawthorne*, in which a deed was avoided under that statute: it was a lease for a congregation of Dissenters of Lady Huntingdon's connection. It should be observed, also, that the relief granted to Protestant Dissenters by the Toleration and subsequent Acts is conditional on their taking certain oaths, and subscribing declarations, which no Catholic can take or subscribe. The Act 2 & 3 Will. 4, c. 115, s. 2, substitutes for these, in the case of "schoolmasters and other masters professing themselves Roman Catholics," the oath prescribed by the Act 10 Geo. 4, c. 7, s. 2; but this substitution does not extend to any other classes, and consequently all others are excluded from the benefit intended by the Act of 1832; for by necessary construction they are forced back upon tests and penalties for recusancy, from which they had been relieved by the Acts 18 Geo. 3, c. 60, and 31 Geo. 3, c. 32. This should, of course, be remedied. Again, in all or nearly all Roman Catholic charities, the bishops for the time being, by virtue of their office, are constituted and declared to be the trustees or administrators of the charities, or the same are to be executed at their discretion, or under their immediate supervision and control. As the law now stands, Roman Catholic bishops in England and Scotland have not only no legal status, but their very existence is declared to be "unlawful and void" (14 & 15 Vict. c. 60). I would also observe, that any Bill now to be passed for amending the law relating to Catholic charities must be expressly retroactive in its operation, in order to avoid all questions under the Succession Duty Act.

Judicial Business Report.

MR. GERMAIN LAVIE'S AND MR. WILLIAM MURRAY'S EVIDENCE ABRIDGED.

Will you favour the Commissioners with any information which you think may be of service to them in their inquiries?

Mr. *Lavie*.—The sentiments of the Council of the Law Society are, that the number of the judges ought not to be reduced; and the sentiments of all the members of the profession, the attorneys, that I have spoken to, without exception, are quite to the same effect. Every one expresses rather his wonder that there should be any thought of reduction. Some say that they should have thought that the number might be increased instead of being reduced. I think there is but one feeling on the subject among the body of attorneys in London. That opinion is founded mainly upon the London business to be transacted by the judges. One element of that opinion is, that I find that there is a universal opinion against three judges sitting in Banco. And I think that if you reduced the number to two judges, or even one, it would be less objectionable. But you must recollect that the judges of the courts of common law are always more or less sitting in appeal upon matters of fact tried at *Nisi Prius*; and, therefore, I think there ought to be four, and that two judges would not do. We fancy, with great respect to the judges, that if two judges are very predominant in a court, and they take the lead against the one judge, the one judge may as well not be there. With three judges to one, it is more difficult not to preserve something like an equipoise; and though it occasionally happens that two judges may be ranked against two judges, that is not common; and when it does happen, it is upon a very grave and difficult subject. We fancy that by its being always necessary to have a majority of three judges, there is a better chance of things being well considered; and we think that the public would be better satisfied than with a majority of two to one. We are very much accustomed to judges sitting in equity alone. There the judge has the whole responsibility himself; he has to argue the case with himself; it is all in his own mind, in his own breast and conscience, and he must come to a proper conclusion; and I think we are tolerably well satisfied with that. I think that a plurality is indispensable in the common law courts, though not in equity. The business is really substantially now very great in London. I am not in the habit of going much now to chambers; but I have two common law clerks, who are constantly in attendance at chambers; and they come to me repeatedly with complaints of the impossibility of getting through the business. We all agree that there should be still the four judges in the common law courts.

Mr. *Murray*.—Yes, and the number not less than fifteen. I think, I will say positively, that, in my opinion, one judge is better than three in any court under any circumstances. I believe that at the Law Society we all thought that there might be some improvement with regard to the circuits. I do not think we all of us see our way upon that subject, though we have sent in a report from the Law Society.

To Mr. *Lavie*.—Are you of the same opinion with one or two other gentlemen who have been here, that the business transacted now by the judges in London, confining your attention to the London business, is individually, amongst the fifteen judges, greater than it was when there were only twelve judges, or as great?—I should say, that, individually, it is greater in some respects. My first recollection of the individual judges of the Court of Exchequer was, that, except when the Chief Baron or other judges sat in equity, they had very little to do. The Court of Exchequer was a closed court for all *Nisi Prius* business. I recollect, in my day, the first civil cause which was ever tried in the Court of Exchequer. The Court of Exchequer never used to sit for general business. I recollect the time when there was

nothing but what they called the general issue. There were no pleadings, no questions arising; there were no interrogations in our common law courts, and the state of business altogether was very different, and, at the very time when the fifteen judges were chosen, I should say the business was less than it is now in the aggregate.

Can you point out the chief features of the change which has taken place?—A great deal arises from the chamber business being so very much increased—a great deal from the interlocutory business, which there is now, but which did not exist before. A great improvement has been made of late years, no doubt, and causes have come to a more satisfactory result. I recollect when a cause was two years in Lord Tenterden's paper; when I first went into the City, in 1824, an action was brought, and there was no pleading required, merely the general issue, and the parties came to issue, and the cause was set down. In my office we never used to look at those papers for a year; we never thought it necessary at all to look at them till we knew when the cause was likely to be tried. There was a complete monopoly in the Court of Queen's Bench. There was very little done, comparatively, in the Court of Common Pleas, and nothing at all in the Court of Exchequer. The whole of the business was then in the Court of Queen's Bench, and it was two years before causes were tried. I should almost have said that it was not the Welch Circuits alone that led to the appointment of fifteen judges; but it was rather the notion, perhaps, of strengthening the Court of Queen's Bench, because, immediately after that alteration was made, a second judge was always sitting in the Court of Queen's Bench, which, in my early days, was never thought of. The Bail Court, when I first began, was never thought of. I should say that the aggregate of business actually done by the judges is now very much greater—that is to say, the substantial good business which they do; the time occupied may not be greater. The labours at chambers are very great, and there is a great deal to do, involving a great many important questions, and very often there is not time enough to do it. Without having gone through the matter statistically at all, my impression is, that the business has not diminished, although the county courts have been established. It would be much more satisfactory to the attorneys as a body, if, during certain periods of time—namely, when the assizes are sitting—there were two judges attending to chamber business instead of one; I have no doubt there is business enough for two judges. There is a great deal of interlocutory pleading and discussion before the judge on very important matters pending at the assizes. Letters come up from the assizes, and it has to be got through before post time, and it is very difficult to do it. My opinion is, that the present fifteen judges are worked as hard as eminent public officers ought to be, and that their time is fairly full. That I understand is the opinion of all the attorneys. It is very rare now that a case is not tried upon the merits. The misfortune in former days was, that cases were prolonged by all sorts of things which are done away with now. We were then upon the system of tripping up more than we are now; we tripped up upon the question of stamps and things which were quite unexpected.

We have a plan before us recommended by the Incorporated Law Society with regard to terms and circuits; that plan recommends three circuits in the year. Is it your intention, in recommending three circuits in the year, that they should each of them transact civil business?—Certainly.

To Mr. *Murray*.—Will you be good enough to explain what the views of the Incorporated Law Society are with regard to the arrangement of criminal business by these three circuits. It was contemplated that there were to be three circuits for criminal business, and that criminal business should be transacted as at present. We also thought that civil business might be transacted on almost all the circuits. But at some particular places it did not seem to me and to the other gentlemen that there were causes sufficient to incur the expense of it. Barristers would not attend.

To Mr. *Lavie*.—Taking your own opinion, is it at all desirable for the ends of justice, either civil or criminal, that there should be a court of assize in the country districts of England every two months?—I hear from people in the country, I hear from Liverpool people, that business which would be conducted at the assizes by the superior courts is either sent up to London to be tried, or to some other place where it can be tried. London and Westminster are the places where it can be alone tried during the intervals of time when they have not sufficient opportunity of trying causes at the assizes; or the alternative is, if the case admits of it, to go to the county court. I believe myself that the effect of there being three assizes at those large places would be that there would be a greater employment of the superior courts, because they are preferred by such places as Liverpool and Manchester. The county courts there are not preferred in the abstract to the superior courts. The majority of the Law Society are for three circuits.

To Mr. *Murray*.—Did you vote on that side?—Yes.

Perhaps you will state the view which is taken?—I take my views a good deal from the country law societies, the reports which they sent us, and their recommendations; and, judging from my own experience, I should say, that, if carried out, it would be very desirable. The country law societies are unanimous that there should be three circuits for civil business. I take the Devon and Exeter, the Plymouth, Manchester, Lancaster, Preston, Hull, and Newcastle-upon-Tyne Societies. We communicated with them, in order to get their views. Most of those societies are for the three circuits—all except the Manchester Society, who think that the assizes for the Hundred of Salford should be held at Manchester. The Plymouth Society recommend that the assize should be held at Plymouth, three circuits, and so on.

To Mr. *Lavie*.—Do you see a benefit in having three terms rather than four?—One's first impression is that there is no benefit in it, but when one looks at it, I do not think it is very material. If there had been three terms originally, I do not think I would have altered them to four.

But in the event of having three circuits, does not it become very material to re-arrange the terms accordingly?—It must be done.

Mr. *Murray*.—It seemed to us that Easter and Trinity Terms coming together was undesirable.

With reference to the proposal for a third assize for civil business, do you find in your experience that in cases of magnitude and importance you can conveniently prepare a cause for trial in less than five or six months?—If you are for the defendant you cannot, but if you are for the plaintiff you can do so. The plaintiff gets up his case, and takes his own time and opportunity for issuing his process, and the defendant is then, in reference to time for pleading, &c., too much at the mercy of the plaintiff.

Mr. *Lavie*. — All these questions about trying important causes are very much compounded of a good many considerations. Sometimes it is very desirable for the litigants themselves that the cause should not be tried too hastily. It is a great mistake, in my belief, to suppose that too great a facility of litigation is a good thing. I venture to think that the county courts have caused more litigation almost than they have cured.

You think that the increased facility will not be an unmixed good?—No; I think it never can be; law is like medicine. I think it is not to be brought home to every man's door to be injuriously used. I never could understand the Courts of Conciliation. Compulsory arbitrations, I think, with submission to the judges, have been a great misfortune, and I hope that that point will be considered. I may observe, that the county courts do not affect the business of Mr. Murray or myself in the least degree.

Births, Marriages, and Deaths.

BIRTHS.

BEAVAN—On Sept. 4, at Hartsheath, Flintshire, the wife of Edward Beavan, Esq., Barrister, of a son.

BOYER—On Sept. 6, at 3 Park-terrace, Highbury, Mrs. Richard Boyer, of a son.

ELLISON—On Sept. 6, at 46 Milner-square, Islington, the wife of Thomas Ellison, Esq., Barrister-at-Law, of a daughter.

HASTIE—On Sept. 4, at East Grinstead, the wife of Arthur Hastie, Esq., of a daughter.

HEMINGS—On Sept. 5, the wife of William Hemings, Esq., of Carey-street, Lincoln's-inn, Barrister-at-Law, of a son.

MARRIAGES.

CREERY—RIPLEY—On Sept. 9, at the parish church, Streatham, Surrey, by the Rev. A. Creery, A.B., brother of the bridegroom, Leslie Creery, Esq., of Ashford, Kent, Solicitor, to Emily Augusta, fourth daughter of the late Rev. Luke Ripley, M.A., Rector of Ilderton, and Vicar of Alnham, Northumberland.

TAYLOR—PERSTON—On Sept. 8, at the English Presbyterian Church, Bryanstone-sq., by the Rev. William Chalmers, A.M., Robert Taylor, Esq., eldest son of James Taylor, Esq., of 15 Furnival's-inn, and Ravenswood, Croydon, Surrey, to Charlotte, Churchill, eldest daughter of Andrew Perston, Esq., of 9 Kensington-park-gardens.

THOMAS—MUGRIDGE—On Sept. 1, at St. Mary's, Southampton, by the Rev. J. Harris, C. S. Thomas, Esq., of Doctors'-commons, and 35 Sussex-gardens, Hyde-park, to Mary Anne, only daughter of the late E. Mugridge, Esq., of Lynn.

DEATHS.

BILTON—On Sept. 2, at Westbrook, Margate, after a short but most severe illness, in his 72nd year, John Bilton, Esq., sen., of Pembroke-cottages, Caledonian-road, and Chancery-lane, Conveyancer.

CATES—On Sept. 6, at his residence, The Grove, Fakenham, Norfolk

Robert Cates, Esq., Solicitor, in the 67th year of his age.

DYKE—On Sept. 8, at his residence, 3 Lennox-pl., Brighton, in his 84th year, Thomas Dyke, Esq., of Doctors'-commons, London.

HITCHINGS—On Sept. 7, at the Lower House, Mayfield, Sussex, Charles Hardaway Hitchings, Esq., of the Middle Temple, Barrister-at-Law, aged 35.

RIVINGTON—On Sept. 3, at Brighton, Duncan, fifth son of Charles Rivington, Esq., of Upper Woburn-place, in his 9th year.

Unclaimed Stock in the Bank of England.

The Amount of Stock heretofore standing in the following Names will be transferred to the Parties claiming the same, unless other Claimants appear within Three Months:—

BAYLDON, JOSEPH, Gent., Carlton, near Barnsley, Yorkshire, and ELIZABETH BAYLDON, his wife, £614 : 19 : 5 Consols.—Claimed by ELIZABETH BAYLDON, Widow, the survivor.

BURGESS, Rev. WILLIAM, Clerk, Thorpe, Essex, Rev. THOMAS DAVIDSON, Ipswich, and Rev. CHARLES MARTIN FORLESSE, Stokeby Newland, Suffolk, £168 : 19 : 5 Consols.—Claimed by WILLIAM BURGESS, THOMAS DAVIDSON, and CHARLES MARTIN FORLESSE.

CLINTON, HENRY FYNES, Esq., of the University of Durham, £49 : 9 : 11 Consols.—Claimed by HENRY FYNES CLINTON.

COCKERELL, JEMIMA, Spinster, Bennett-st., Rathbone-pl., £400 Imperial Annuities.—Claimed by JOHN MANNING, Administrator.

CURRIE, Rev. WILLIAM, Adderley-hall-market, Drayton, Salop, £1,720 New 3 per Cents.—Claimed by WILLIAM HALSTED POOLE, the surviving acting executor.

TOSSWILL, CHARLES SPEARE, Chemist, Torrington-place, Torrington-square, £100 Reduced.—Claimed by ROBERT TOSSWILL and GEORGE MURPHY, the surviving executors.

WARWICK, Right Hon. HARRIET, Countess Dowager of, deceased, £10 Long Annuities.—Claimed by Right Hon. GEORGE GUY, Earl BROOKE, and Earl of WARWICK, administrator.

Heirs at Law and Next of Kin.

Advertised for in the London Gazette *and elsewhere during the Week.*

MOORHOUSE JOHN (who died in 1820), of Thompson-la., Chadderton, Lancashire.—His children, or his heir-at-law, or next of kin, or the legal personal representative of any child or children of the said John Moorhouse living at the time of his death, and since deceased, are to come in and prove their claims on or before Oct. 1, at the office of the District Registrar, 6 Camden-pl., Preston.

Money Market.

CITY, FRIDAY EVENING.

The English Funds have shown very little fluctuation during the past week, and transactions have not been numerous. Consols closed to-day at 90¼—⅜, which is nearly the same as this day week. The demand for money continues active both on the Stock Exchange and in the open market. The Bank rate of 5½ per Cent. interest is generally obtained, and the expectation which was entertained some time back that the rate would be lowered by the Bank has passed off. From the Bank of England return for the week ending the 5th September, 1857, which we give below, it appears that the amount of notes in circulation is £19,246,840, being a decrease of £77,335, and the stock of bullion in both departments is £11,491,313, showing a decrease of £9,274 when compared with the previous return.

The corn market is firm both in London and the country without any appearance of further decline, on the contrary rather higher rates are quoted. The arrival of cattle and sheep into the port of London from the continent has been unusually large. The customs return for one week gives a total of 16,174 head.

It appears that the directors of the Great Western Railway Company are taking measures to reduce the working expenses of their various lines. Several of their daily trains have been discontinued this month. The locomotive establishment at Swindon will participate in the general curtailment, 300 of the artisans having received notice to leave the company's service.

Accounts of the Bank of France, subsequent to the last monthly statement, are put forward as shewing a more favourable state of its affairs in consequence of a considerable increase in its stock of bullion, and greater ease in regard to discount.

M. Auguste Thurneyssen has been declared bankrupt in consequence of his connection with his nephew. The Credit Mobilier is felt to be greatly compromised by this judgment against one of its most influential directors.

The resolutions mentioned in our last number, passed by the Council General of the department of Herault, open the question of free trade in France with an appearance of much weight and importance. If this movement prove to be the leader of a large amount of general feeling on the part of the agriculturists and traders of France, changes may be expected of great interest to this country. If the French Government enter upon the consideration of reducing their import duties, they will probably negotiate for a further reduction of our import duties. But, in fact, our arrangements have already gone very far in the way of reduction—so far, indeed, that we have the authority of Sir Cornewall Lewis for saying, that, if a customs' revenue is to be maintained of such amount as is essential to the stability of our finances, no further considerable reductions can be made under present circumstances.

The tariff of France is based upon the principle of protection to French industry by absolute prohibition of foreign competition. A resolution has recently been voted by the Council General of the Nord that protection is, and will be for a long time, the most imperious want of French agriculture and manufactures. In the tariff of England the principle of protection is renounced, and foreign produce is taxed to raise the necessary customs' revenue. By reason of the requirements of the revenue, we cannot afford to reduce the duty on wine. We tax British spirits to the utmost point consistent with the principle of not giving encouragement to illicit distillation. We apply the same principle to foreign spirits, and we cannot afford further to reduce these duties. In silks and paperhangings, clocks and cabinetwork, and some other articles, something may perhaps be done to meet the wishes of our neighbours. Our tariff of import duties has been greatly lowered without waiting for reciprocal reductions on the part of other nations. The best interests of the manufactures and trade of France will be advanced by adopting a similar line of policy, of which it is to be hoped the present movement is an indication.

In attempting to settle the affairs of the London and Eastern Banking Corporation a picture is presented to the public very similar to that of the Royal British Bank. About six months ago it became known that this bank was in difficulties. It was then stated that the paid-up capital, namely, £250,000, and a small additional contribution by the shareholders, would be sufficient to meet all liabilities. Since that date notice of its affairs has several times come before the public, and every notice has been more unfavourable than that which preceded it. But not till recently has it appeared that the expectation confidently put forward, of settling all matters by the corporation themselves, would not be realised. The petition lately presented to the Court of Chancery for an order to dissolve the corporation, and that its affairs may be wound up under the provisions of the Joint-Stock Companies Winding-up Acts, makes disclosures which seem to preclude all probability of any arrangement without judicial interference. The petition alleges that very shortly after the company had begun business, the directors commenced making advances out of the paid-up capital of the said company to each other on insufficient or without any security other than personal, and at a rate of interest lower than would and ought to have been obtained for such advances, and among others to John Carnac Morris, John Edward Stephens, and Colonel Waugh, directors of the said company. The directors advanced and lent to Colonel Waugh the sum of £237,000 upon security of a nature and value wholly insufficient to warrant such an advance, and upon the realization of such security a loss to the amount of £100,000, or upwards, will, in all probability, arise, Colonel Waugh having since become bankrupt. V. C. Wood has fixed the 21st instant for the appointment of an official liquidator.

English Funds.

ENGLISH FUNDS.	Sat.	Mon.	Tues.	Wed	Thur.	Fri.
Bank Stock	...	217	...	...	...	...
3 per Cent. Red. Ann.	...	...	...	...	...	...
3 per Cent. Cons. Ann.	90½ ⅝ ½	90⅝ ½	90⅝ ½	90⅝ ⅝ ⅝	90⅝ ½ ½	90⅝
New 3 per Cent. Ann.	91¼ 1	91¼	90¾ 1	90¾	...	...
New 2½ per Cent. Ann.	...	...	...	...	76	...
5 per Cent. Annuities	...	...	...	...	...	...
Long Ann. (exp. Jan. 5, 1860)	...	...	...	...	...	...
Do. 30 years (exp. Oct. 10, 1859	...	...	...	...	...	...
Do. 30 years (exp. Jan. 5, 1880)	...	...	...	...	...	...
Do. 30 years (exp. Apr. 5, 1885)	...	...	...	...	...	...
India Stock	212½	...	...	213	...	210
India Bonds (£1,000)	...	...	...	...	20s. dis.	...
Do. (under £1,000)	...	17s. dis.	...	...	22s. dis.	...
Exch. Bills (£1,000) Mar.	5s. dis.	5s. dis.	1s. dis	5s. dis.	7s. dis.	4s. dis.
June	...	...	...	...	...	...
Exch. Bills (£500) Mar.	...	5s. dis.	5s. dis	par	1s. dis.	4s. dis.
June	...	...	...	...	...	...
Exch. Bills (Small) Mar.	par	par	1s. dis.	...	1s. dis.	4s. dis.
June	...	...	...	...	...	...
Exch. Bills Advertised	...	...	...	...	...	...
Exch. Bonds, 1858, 3½ per Cent.	...	...	...	98⅝	98⅝	...
Exch. Bonds, 1859, 3½ per Cent.	...	98½	98⅝	98½ ¾	...	98½

Railway Stock.

Railways.	Sat.	Mon.	Tues.	Wed.	Thur	Fri.
Bristol and Exeter ...	...	...	...	87½ x d	86½ x d	...
Caledonian	81⅞ 4	84⅛ 3½	82⅝ ⅝	83¼ 4⅝	84⅛ 3½	82⅝ ⅛
Chester and Holyhead ...	34½	34	...	...	...	...
East Anglian	...	20¼ ⅝	20⅝	...	20½	...
Eastern Union A stock .	...	...	...	...	...	...
East Lancashire	...	...	...	...	96	96½
Edinburgh and Glasgow	63	...	...	62⅝	62⅝	...
Edin., Perth. & Dundee .	31⅝ 30¾	32	31½	32 1½	32½ 3½	33½
Glasgow & South Western	...	...	...	...	...	...
Great Northern	96	96½	96¼	96½	96¼ 5⅛	95⅝
Gt. South & West. (Ire.).	...	...	102½	...	101⅛	100⅝
Great Western	55⅝ x d	56⅛ x d	55⅞ x d	56 x d	55⅛ x d	55⅛ x d
Lancashire & Yorkshire .	100½	100⅝ ¼	100½ ¼	100¼	...	...
Lon., Brighton, & S. Coast	105 4⅝	...	105½ 5	...	105 4½	105¼ 4⅝
London & North Western	100½ xd	100⅝ xd	100½ xd	100½ xd	99⅝ x d	100 x d
London and S. Western .	92½ ⅜ ¼	92½	92½ 1½	92⅛ 2	92½ ⅛	92⅛ 1⅜
Man., Shef., and Lincoln	40½	40⅜ ⅜	40⅛	40⅜ 1	41⅛ 2	41⅜ 2
Midland	81⅛ x d	82⅛ x d	81⅜ x d	82 x d	81⅜ x d	81⅛ x d
Norfolk	63⅛ x d	63⅛ x d	...	63⅛ x d	63 x d	...
North British	48⅛ ⅛	48⅛ ⅜ 9	48¼ 9⅛	50⅛	50⅛ 50	50⅛ ⅛
North Eastern (Berwick)	94¼ x d	94¼ x d	94 x d	93⅛ x d	93 x d	92½ x d
North London	...	...	...	...	...	...
Oxford, Worc. & Wolv. .	32½	32⅛ ⅛	32⅛	32⅛ ⅜ ⅛	32⅛ ⅜	...
Scottish Central	...	103⅛ 3	104	105	...	104
Scot. N.E. Aberdeen Stock	25	25	...	...	...	...
Shropshire Union	50	...	50	50	...	...
South-Eastern	...	69⅛ x d	69⅛ x d	69⅛ x d	69⅜ x d	68⅛ x d
South-Wales	84⅛ x d	84⅛ x d	84⅛ x d	...	84⅛	...

Insurance Companies.

Equity and Law	6
English and Scottish Law	4½
Law Fire	4½
Law Life	62
Law Reversionary Interest	19
Law Union	par
Legal and Commercial	par
Legal and General Life	6½
London and Provincial	2⅝
Medical, Legal, and General	par
Solicitors' and General	par

Bank of England.

AN ACCOUNT, PURSUANT TO THE ACT 7TH AND 8TH VICTORIA, C. 32, FOR THE WEEK ENDING ON SATURDAY, THE 5TH DAY OF SEPTEMBER, 1857.

ISSUE DEPARTMENT.

	£		£
Notes issued . .	25,311,410	Government Debt .	11,015,100
		Other Securities . .	3,459,900
		Gold Coin and Bullion.	10,836,410
		Silver Bullion .	...
	£25,311,410		£25,311,410

BANKING DEPARTMENT.

	£		£
Proprietors' Capital .	14,553,000	Government Securities (incl. Dead Weight Annuity) .	10,593,653
Rest	3,893,251	Other Securities . .	18,351,990
Public Deposits (including Exchequer, Savings' Banks, Commissioners of National Debt, and Dividend Accounts) . . .	7,087,314	Notes	6,064,570
		Gold and Silver Coin .	654,903
Other Deposits . .	9,360,219		
Seven day & other Bills	771,332		
	£35,665,116		£35,665,116

Dated the 10th day of Sept., 1857. M. MARSHALL, Chief Cashier.

London Gazettes.

NEW MEMBER OF PARLIAMENT.

TUESDAY, *Sept.* 8, 1857.

Borough of Tavistock.—Arthur John Edward Russell, Esq., *vice* the Hon. George Henry Charles Byng.

Bankrupts.

TUESDAY, *Sept.* 8, 1857.

BACHE, SAMUEL, & SAMUEL TERTIUS BACHE, Jewellers, Birmingham. *Pet.* Sept. 5. Sept. 21 and Oct. 14, at 10; Birmingham. *Com.* Balguy. *Off. Ass.* Whitmore. *Sols.* Powell & Son, Birmingham.

BASHAM, WILLIAM, & CHARLES EDWARD DAVIS, Export Oilmen, 24 Walbrook. *Pet.* Sept. 3. Sept. 21, at 11.30, and Oct. 19, at 11; Basinghall-st. *Com.* Goulburn. *Off. Ass.* Pennell. *Sols.* Pocock & Poole, 58 Bartholomew-close.

BEAR, GEORGE, Butcher, Sudbury, Suffolk. *Pet.* Sept. 7. Sept. 16 and Oct. 20, at 2; Basinghall-st. *Com.* Fonblanque. *Off. Ass.* Stansfeld. *Sol* Goodday, 42 Fish-st.-hill.

BROOK, WILLIAM HARVEY, Cheesemonger, 9 Peerless-pl., City-rd. *Pet.* Sept. 4. Sept. 15, at 2, and Oct. 20, at 1; Basinghall-st. *Com.* Fonblanque. *Off. Ass.* Graham. *Sol.* Cattlin, 3 Ely-pl., Holborn.

BROWN, MARY, Widow, Grocer, Kinfare, Staffordshire. *Pet.* Aug. 29. Sept. 18, at 11.30, and Oct. 9, at 10; Birmingham. *Com.* Balguy. *Off. Ass.* Whitmore. *Sols.* Deakin & Dent, Wolverhampton; or James, Birmingham.

CADMAN, JOHN, Brickmaker, Upholland and Billinge, Lancashire. *Pet. for Arrgt.* June 23; *Adjudication*, Sept. 7. Sept. 21 and Oct. 12, at 12; Liverpool. *Com.* Perry. *Off. Ass.* Cazenove. *Sol.* Darlington, 48 Milligate, Wigan.

DAVIES, DAVID, Grocer, Llandilofawr, Carmarthenshire. *Pet.* Sept. 7. Sept. 22 and Oct. 20, at 11; Bristol. *Com.* Hill. *Off. Ass.* Acraman. *Sols.* Bevan & Girling, Small-st., Bristol.

GREAVES, HENRY (Thomas Greaves & Co.), Reed and Heald Maker, Halifax. *Pet.* Sept. 7. Sept. 24 and Oct. 23, at 11; Commercial-bldgs., Leeds. *Com.* Ayrton. *Off. Ass.* Hope. *Sols.* Wavell, Philbrick, & Foster, Halifax.

HART, THOMAS, Hat Manufacturer, 41 Charlotte-st., Blackfriars. *Pet.* Sept. 3. Sept. 16, at 11, and Oct. 24, at 11.30; Basinghall-st. *Com.* Fane. *Off. Ass.* Whitmore. *Sol.* Crafter, 10 Doughty-st.

HUTCHISON, WILLIAM, Stone Merchant, Frant, near Tonbridge-wells. *Pet.* Aug. 31. Sept. 15, at 2.30, and Oct. 20, at 1.30; Basinghall-st. *Com.* Fonblanque. *Off. Ass.* Stansfeld. *Sols.* Clarke & Carter, 49 Moorgate-st.

KIRKHAM, THEOPHILUS, East India Merchant, 28 Leadenhall-st. *Pet.* Sept. 4. Sept. 16, at 1.30, and Oct. 24, at 12.30; Basinghall-st. *Com.* Fane. *Off. Ass.* Cannan. *Sols.* Kaye & Son, 4 Symond's-inn, Chancery-la.

NOAKES, JOHN, Linendraper, 15 Park-pl., Kennington-cross, Surrey. *Pet.* Sept. 4. Sept. 17, at 12.30, and Oct. 24, at 11; Basinghall-st. *Com.* Fane. *Off. Ass.* Cannan. *Sol.* Oldknow, 3 Guildford-pl., Russell-sq.

OXLEY, GEORGE PREVOST, Merchant, Liverpool. *Pet.* Sept. 5. Sept. 28 and Oct. 19, at 11; Liverpool. *Com.* Perry. *Off. Ass.* Cazenove. *Sols.* Forshaw, Barned-bldgs., 12 Sweeting-st., Liverpool; or Goodman, Liverpool.

PERRIN, JOHN GOOLDEN, WILLIAM LIONEL FREESTONE, & SAMUEL WILLIAM TUCKEY, Merchants, 15 Gt. St. Helen's, London, and 29 Queen-sq., Bristol; but J. G. Perrin & S. W. Tuckey are now of 29 Queen-sq., Bristol, and W. L. Freestone is now of 15 Gt. St. Helen's. *Pet.* Sept. 7. Sept. 21 and Oct. 20, at 11; Bristol. *Com.* Hill. *Off. Ass.* Miller. *Sols.* Brittan & Son, Bristol.

SEARS, WILLIAM JOSEPH, & JAMES SEARS, Printers, 3 and 4 Ivy-la., Paternoster-row. *Pet.* Sept. 3. Sept. 18, at 1.30, and Oct. 23, at 12; Basinghall-st. *Com.* Fane. *Off. Ass.* Whitmore. *Sols.* Jenkinson, Sweeting, & Jenkinson, 7 Clement's-la., Lombard-st.

TIMBERS, SAMUEL PEACOCK, Grocer, Gt. Yarmouth. *Pet.* Aug. 27. Sept. 16 and Oct. 24, at 12; Basinghall-st. *Com.* Fane. *Off. Ass.* Cannan. *Sols.* Sole, Turner, & Turner, 68 Aldermanbury; or Miller, Son, & Bugg, Norwich.

FRIDAY, *Sept.* 11, 1857.

BADHAM, JOHN, Builder, late of Hillingdon, now of Ruislip, Middlesex. *Pet.* Sep. 9. Sept. 25, at 12, and Oct. 30, at 12.30; Basinghall-st. *Com.* Fonblanque. *Off. Ass.* Stansfeld. *Sols.* Poole & Gamlin, 3 Gray's-inn-sq.

BURGE, RICHARD, Bookseller, Manchester. *Pet.* Sept. 8. Sept. 25, and Oct. 15, at 12; Manchester. *Off. Ass.* Pott. *Sols.* Higson & Robinson.

DIPROSE, SAMUEL PYALL, Grocer, St. Leonard's-on-Sea, Sussex. *Pet.* Sept. 2. Sept. 23, at 2, and Oct. 29, at 12; Basinghall-st. *Com.* Fonblanque. *Off. Ass.* Graham. *Sols.* Linklaters & Hackwood, 17 Sise-la.

GILL, HOWARD, Merchant, 8 Gloucester-crsct. North, Porchester-sq., Bayswater. *Pet.* Sept. 9. Sept. 23, at 1.30, and Oct. 28, at 3; Basinghall-st. *Com.* Fonblanque. *Off. Ass.* Stansfeld. *Sol.* Edwards, 15 Coleman-st.

GUTTERIDGE, THOMAS, Innkeeper, Bell Inn, Wilton, near Salisbury, Wilts, previously of Sutton, Surrey, Farmer. *Pet.* Sept. 10. Sept. 25, and Oct. 30, at 11; Basinghall-st. *Com.* Fonblanque. *Off. Ass.* Graham. *Sol.* Gilham, 24 Bartlett's-bldgs., Holborn.

HALL, ROBERT, & THOMAS HYDE (Robert Hall & Son), Mill Manufacturers, Dudley, Worcestershire. *Pet.* Sept. 1. Sept. 25 and Oct. 15, at 11.30; Birmingham. *Com.* Balguy. *Off. Ass.* Christie. *Sols.* Caldicott & Canning, Dudley; or Smith, Birmingham.

HAMILTON, JOHN, & ROBERT HAMILTON (John Hamilton & Son), Wireworkers, Halifax. *Pet.* Sept. 9. Sept. 24 and Oct. 23, at 11; Commercial-bldgs., Leeds, *Com.* West. *Off. Ass.* Young. *Sols.* Wavell, Philbrick, & Foster, Halifax.

HARDING, WILLIAM, Builder, Lewisham and Margate. *Pet.* Sept. 8. Sept. 23 and Oct. 23, at 11.30; Basinghall-st. *Com.* Fane. *Off. Ass.* Cannan. *Sols.* E. E. Towne, 27 Broad-st.-bldgs.; or J. Towne, Margate.

MARSHALL, THOMAS JOHN, Engineer, 80½ Bishopsgate-st., Without. *Pet.* Sept. 9. Sept. 23, at 1, and Oct. 29, at 11; Basinghall-st. *Com.* Fonblanque. *Off. Ass.* Graham. *Sols.* Linklaters & Hackwood, 17 Sise-la., City.

SAYER, HENRY HUNT, Corn and Seed Factor, West-st., Bristol. *Pet.* Sept. 9. Sept. 22, and Nov. 2, at 11; Bristol. *Com.* Hill. *Off. Ass.* Acraman. *Sols.* Bevan & Girling, Small-st., Bristol.

SCRUBY, JAMES, Grocer, Bishop Stortford, Herts. *Pet.* Sept. 9. Sept. 25 and Oct. 30, at 12; Basinghall-st. *Com.* Fonblanque. *Off. Ass.* Stansfeld. *Sols.* Harrison & Dobree, 20 Hart-st., Bloomsbury.

SMALL, EDWARD, Plumber, Northgate-st., Ville of St. Gregory, near Canterbury. *Pet.* Sept. 7. Sept. 17, at 11, and Oct. 28, at 2; Basinghall-st. *Com.* Fonblanque. *Off. Ass.* Graham. *Sols.* Walker & Son, 13 St. Swithin's-la., City.

SMITH, JOHN PASSAM, Teadealer, 1 Coventry-st., Haymarket. *Pet.* Sept. 9. Sept. 23, at 12.30, and Oct. 28, at 2.30; Basinghall-st. *Com.* Fonblanque. *Off. Ass.* Graham. *Sols.* Linklaters & Hackwood, 17 Sise-la., City.

TAYLOR, THOMAS, Grocer, 11 Osborne-pl., Blackheath. *Pet.* Sept. 8. Sept. 24, at 11, and Oct. 29, at 11.33; Basinghall-st. *Com.* Fonblanque. *Off. Ass.* Stansfeld. *Sol.* Atkinson, Chancery-chambers, Quality-court, Chancery-la.

WARD, GEORGE, Hotelkeeper, Sandgate, Kent. *Pet.* Aug. 29. Sept. 24, at 2, and Oct. 23, at 12.30; Basinghall-st. *Com.* Fane. *Off. Ass.* Whitmore. *Sols.* Fry & Loxley, 80 Cheapside; or Wightwick, Folkestone.

WHITE, WATSON, Grocer, Bishop Wearmouth, Durham. *Pet.* Aug. 31. Oct. 2, at 1, and Oct. 28, at 12; Royal-arcade, Newcastle-upon-Tyne. *Com* Ellison. *Off. Ass.* Baker. *Sols.* Forster, Pilgrim-st., Newcastle-upon-Tyne; or Bolding & Simpson, 17, Gracechurch-st., London.

BANKRUPTCIES ANNULLED.

TUESDAY, *Sept.* 8, 1857.

KIRKHAM, JOHN (John Kirkham & Co.), Ironfounder, Bridge-row, Battersea. Sept. 4.

FRIDAY, *Sept.* 11, 1857.

LOWDEN, JOHN, & WILLIAM LOWDEN, Shipowners, 13 Coleshill-st., Pimlico. July 13.

POLLACK, EDWARD, Sugar Refiner, Fieldgate-st., Middlesex. Sept. 9.

MEETINGS.

TUESDAY, *Sept.* 8, 1857.

BROOKE, GEORGE, Provision-dealer, Leadenhall-market, London, and 93 Peascod-st., Windsor. Sept. 29, at 1; Basinghall-st. *Com.* Holroyd. *Div.*

ERSWELL, CHARLES, Builder, Saffron Walden, Essex. Sept. 29, at 11; Basinghall-st. *Com.* Holroyd. *Div.*

HATCH, JOSIAH JOSEPH, Wholesale Furrier, 30 Friday-st. Sept. 29, at 11; Basinghall-st. *Com.* Holroyd. *Div.* under the adjudications of Nov. 25, 1851, and Feb. 9, 1856.

HEMINGWAY, BENJAMIN (B. Hemingway & Son), Painter and Upholsterer, Derby. Sept. 29, at 10.30; Shire-hall, Nottingham. *Com.* Balguy. *Aud. Acc. and Div.*

JONES, WILLIAM, Builder, Brecon. Oct. 15, at 11; Bristol. *Com.* Hill. *Div.*

MEE, WILLIAM, Manufacturer of Plain and Fancy Hosiery, Leicester. Sept. 29, at 10.30; Shire-hall, Nottingham. *Com.* Balguy. *Aud. Acc. and Div.*

FRIDAY, *Sept.* 11, 1857.

BAXTER, GEORGE, & GEORGE TOONE, Dyers, Nottingham. Oct. 16, at 10.30; Shire-hall, Nottingham. *Com.* Balguy. *Aud. Accs. and Div.*

BOYD, JOHN EDMUND, Baker, Grosvenor-st. West, Pimlico. Sept. 24, at 1; Basinghall-st. *Com.* Fane. *Last Ex.*

HANSON, JOHN, & JAMES WALKER, Coachbuilders, Sheffield. Oct. 1, at 10; Council-hall, Sheffield. *Com.* West. *Div.*

HARDY, JOSEPH, Miller, Nottingham. Oct. 16, at 10.30; Shire-hall, Nottingham. *Com.* Balguy. *Aud. Accs. and Div.*

HEWITT, GEORGE ALEXANDER, Chemist, Derby. Oct. 6, at 10.30; Shire-hall, Nottingham. *Com.* Balguy. *Div.*

MARE, CHARLES JOHN, Shipbuilder, Orchard-yd., Blackwall. Oct. 2, at 11; Basinghall-st. For the purpose of considering and agreeing to accept, or reject, an offer of composition to be made by C. J. Mare.

MARSHALL, WILLIAM, & WILLIAM SMITH, Edge-tool and Scythe Manufacturers, Sheffield. Oct. 3, at 10; Council-hall, Sheffield. *Com.* West. *Div.*

ROBINSON, GEORGE JONATHAN, Silk Merchant, Nottingham. Oct. 6, at 10.30; Shirehall, Nottingham. *Com.* Balguy. *Aud. Acs. and Div.*

SALTER, AUGUSTUS, Grocer, Swansea, Glamorganshire. Oct. 8, at 11; Bristol. *Com.* Hill. *Div.*

WHARTON, RALPH, Machine Maker, Nottingham. Oct. 13, at 10.30; Shirehall, Nottingham. *Com.* Balguy. *Aud. Accs. and Div.*

WHARTON, SAMUEL, Ironfounder, Nottingham, lately of Chesterfield, Derbyshire. Oct. 13, at 10.30; Shirehall, Nottingham. *Com.* Balguy. *Aud. Accs. and Div.*

WINNING, WILLIAM, Small Ware Manufacturer, Wirksworth, Derbyshire. Oct. 16, at 10.30; Shirehall, Nottingham. *Com.* Balguy. *Aud. Accs. and Div.*

CERTIFICATES.

To be ALLOWED, *unless Notice be given, and Cause shown on Day of Meeting.*

TUESDAY, *Sept.* 8, 1857.

BATE, RICHARD, Wine and Spirit Merchant, Shrewsbury. Oct. 5, at 10; Birmingham.

CLARK, JAMES, Tea-dealer, Alphington-st., St. Thomas the Apostle, Devon. Oct. 8, at 11; Queen-st., Exeter.

LAKE, WILLIAM, Brewer, Topsham, Devon. Oct. 8, at 11; Queen-st., Exeter.

MORTIMER, HENRY GLADWELL, Builder, Lee, Kent. Sept. 29, at 2; Basinghall-st.

NASH, EDWARD RICHARD, Wine Merchant, 25 College-hill. Oct. 1, at 2; Basinghall-st.

WHEELDON, JOHN, Packing-case Manufacturer, Manchester. Sept. 29, at 12; Manchester.

WHEELER, RICHARD, Miller, St. Owen, Hereford. Oct. 5, at 10; Birmingham.

FRIDAY, *Sept.* 11, 1857.

SLAUGHTER, JOSEPH, Hop Merchant, 55 High-st., Borough. Oct. 5, at 1; Basinghall-st.

TORRING, RICHARD, Builder, 50 Coburg-st., Plymouth. Oct. 5, at 10; Athenæum, Plymouth.

To be DELIVERED, *unless* APPEAL *be duly entered.*

TUESDAY, *Sept.* 8, 1857.

BRAMWELL, JAMES, Grocer, Glossop, Derbyshire. Sept. 1, 3rd class.

DANGERFIELD, JOHN, sen., Builder, Kirtley, otherwise Kirkley, Suffolk. Aug. 31, 2nd class; after a suspension of four months.

MORRIS, WILLIAM, Grocer, Liverpool. Aug. 31, 3rd class; subject to a suspension of three months.

ROWLINSON, RICHARD, Shipowner, Liverpool. Aug. 31, 2nd class.

SAVAGE, JAMES, sen., CHARLES JOHN SAVAGE, & JAMES SAVAGE, jun., Shirt Manufacturers, 40 Noble-st. Sept. 2, 2nd class.

STOCKBRIDGE, GEORGE, Draper, 34 Oxford-st. Aug. 31, 3rd class; after six months' suspension.

FRIDAY, *Sept.* 11, 1857.

AUDLEY, WILLIAM, Auctioneer, Newcastle-under-Lyne, Staffordshire. Sept. 4, 3rd class.

BAKER, BENJAMIN, Apothecary, Cardiff. Sept, 8, 2nd class.

CARLESS, JOHN, Innkeeper, Laburnam Inn, Barton-ter., Gloucester. Sept. 8, 2nd class.

DAY, RICHARD KEMSLEY, Fuel Manufacturer, 87 Bermondsey-st., Southwark. Sept. 5, 2nd class; after three months' suspension.

GOMER, RICHARD, Dealer in Fancy Goods, Castle-st., Dudley, Worcestershire. Sept. 4, 2nd class.

HOCHEE, JOHN ELPHINSTONE FATQUA, otherwise JOHN ELPHINSTONE MILTON (London Anti-Oxyde Paint Co.), Maker and Vender of Paint, Nortons Lingfield, Surrey, late of 29 New Bridge-st., Blackfriars, and of Greenwich. Aug. 27, 1st class.

KNAPP, JAMES NELSON, Sailmaker and Shipowner, Newport, Monmouthshire. Sept. 8, 1st class.

NEVILLE, MICHAEL, Brassfounder, Liverpool. Sept. 4, 2nd class.

REAY, WILLIAM, Corn and Provision Dealer, 39 Worcester-st., Birmingham. Sept. 4, 3rd class.

REMINGTON, HENRY (H. Remington & Co.), Gasfitter, 5 Railway-pl., Fenchurch-st. Sept. 1, 3rd class.

RICHARDS, SAMUEL, Apothecary, also a Shareholder in the Royal British Bank, 36 Bedford-sq. Sept. 2, 1st class.

RICHES, CHARLES HENRY, Carrier, Cardiff. Sept. 8, 2nd class.

ROBERTS, WILLIAM FLETCHER, Apothecary, Moreton-in-the-Marsh, Gloucestershire. Sept. 8, 1st class.

Assignments for Benefit of Creditors.

TUESDAY, *Sept.* 8, 1857.

GILBERT, ELIZABETH ANN MARY, Dressmaker, Tunbridge Wells, Kent. Aug. 8. *Trustee*, J. Stringer, Appraiser, Tunbridge Wells. *Sol.* Wheatley, Tunbridge Wells.

GODRICH, WILLIAM ALLSOP, Coal Merchant, Winchester. Aug. 21. *Trustees*, P. Colson, Southampton; R. Newton, Coal Merchant, Winchester. *Sol.* Faithfull, Winchester.

GRISBROOK, JOHN, Beerseller, Stoke Bruern, Northamptonshire. Aug. 27. *Trustees*, F. Woodward, Butcher, Stoke Bruern; T. Grisbrook, Miller, Stoke Bruern. *Sol.* Flesher, Northampton.

HOWLETT, JOHN, Linendraper, High-st., Islington. Aug. 31. *Trustees*, H. Hooton, Warehouseman, Watling-st.; G. Howes, Warehouseman, St. Paul's-churchyd. *Sols.* Reed, Langford, & Marsden, 59 Friday-st., Cheapside.

LIMBRICK, JAMES, Butcher, 14 Northgate-st., Bath. Aug. 28. *Trustees*, R. Hales, Butcher, Bath; T. Spackman, Tanner, Turley, Bradford, Wilts; A. Shepherd, Innkeeper, Bath. Indenture lies at house of A. Shepherd, Crown Inn, Bath.

NELSON, PHILIP, Merchant, 4 Coleman-st. Sept. 4. *Trustees*, J. Green, Shoe Manufacturer, Redcross-st., Cripplegate; J. L. Miers, Warehouseman, Fore-st., Cripplegate. *Sol.* Howard, 9 Quality-ct., Chancery-la.

SMITH, MOSES, Drapers, 26 Mount-st., Whitechapel. Aug. 28. *Trustee*, H. Hooton, Warehouseman, Watling-st. *Sols.* Reed, Langford, & Marsden, 59 Friday-st., Cheapside.

TIVEY, WILLIAM, Tailor, Bilston, Staffordshire. Aug. 10. *Trustees*, W. P. Bellis, Draper, Birmingham; J. Bishop, Draper, Bilston; M. G. Allan, Woollendraper, Birmingham. *Sol.* Waterhouse, Mount Pleasant, Bilston.

WARD, ARTHUR, Painter and Paperhanger, 204 London-rd., Liverpool. Aug. 1. *Trustee*, W. Snape, Paper Manufacturer, Over Darwen, Lancashire. *Sol.* Cobb, 10 South John-st., Liverpool.

WILSON, GEORGE, Printer, High-st., Fulham. Aug. 25. *Trustee*, E. Morgan, Stationer, 103 Cheapside. *Sol.* Wyatt, 11 King's-rd., Bedford-row

FRIDAY, *Sept.* 11, 1857.

COATS, JOHN, Glue-hill, Sturminster Newton, Dorsetshire. Aug. 26. *Trustees*, J. Lindsay, Ironmonger, Blandford Forum; J. Rose, Miller, Fiddleford. *Sols.* Dashwood & Son, Sturminster.

HILLS, JANE ELIZABETH, & SARAH JEFFERY MITCHAMORE, Drapers, Plymouth. Aug. 21. *Trustees*, H. Brown, Warehouseman, Plymouth; G. D. Radford, Draper, Plymouth. *Sol.* Matthews, 44 Torrington-pl., Plymouth.

MANSFIELD, ANNE, Widow, late of Gregory's Hotel, Cheapside, but then of Kingsland, Middlesex. Aug. 25. *Trustees*, J. B. Dew, Hosier, Cheapside; D. Carr, Gent., Newgate-st. *Sol.* Fry, 2 Danes-inn, Strand.

PERKS, THOMAS, Goldsmith, Birmingham. Sept. 4. *Trustee*, A. Kemp, Goldsmith, Birmingham. *Sol.* Suckling, 35 Cherry-st., Birmingham.

SHEAF, SAMUEL, Miller and Baker, Hinton-on-the-Green, Gloucestershire. Aug. 19. *Trustee*, W. Roberts, Farmer, Hinton-on-the-Green. *Sol.* Eades, Evesham, Worcestershire.

TOWNSEND, MATTHEW, Manufacturer of Hosiery, Leicester. Sept. 3. *Trustees*, T. Sunderland, F. Gill, S. D. Bromhead, J. Wykes, J. Wilby, and J. Plant, Gents., Leicester. *Sols.* Stone, Paget, & Billson, Leicester.

Creditors under Estates in Chancery.

FRIDAY, *Sep.* 11, 1857.

MOORHOUSE, JOHN (who died in 1820), late of Thompson-la., Chadderton, Lancashire. Creditors or incumbrancers upon his real estate situate in Palace-st., Manchester, to come in and prove their claims on or before Oct. 1, at the office of the District Registrar, 6 Camden-pl., Preston.

Winding-up of Joint Stock Companies.

TUESDAY, *Sept.* 8, 1857.

LONDON AND EASTERN BANKING CORPORATION.—A petition for the dissolution and winding up of this Corporation was, on Sept. 3, presented to the Lord Chancellor by Abel Stuart and George Duplex, which will be heard before V. C. Wood, on Sept. 21, at 12, at the White Horse Inn, Ipswich.—Tucker, Greville, & Tucker, Sols. for Petitioners, 28 St. Swithin's-la.

TIPPERARY JOINT-STOCK BANK.—Master Murphy requires the creditors who have proved, or whose debts have been admitted by the Official Manager, &c., to meet before him on Oct. 22, at 12, at his chambers, Inn's-quay, Dublin, to appoint one or more person or persons (other than the Official Manager) to represent all the creditors of the Tipperary Bank in the proceedings before him. Creditors may authorise any other person to appear for them at such meeting.—James Dillon Meldon, Solicitor, 14 Upper Ormond-quay, Dublin.

Scotch Sequestrations.

TUESDAY, *Sept.* 8, 1857.

KNOX, Miss ISABELLA, some time residing in North Leith, near Edinburgh, thereafter at Melrose, Roxburgh, deceased. Sept. 12, at 12, Cay & Black's Rooms, 65 George-st., Edinburgh. *Seq.* Sept. 4.

ROSS, ALEXANDER, Boot and Shoe Manufacturer, Ayr. Sept. 14, at 1, King's Arms Hotel, Ayr. *Seq.* Sept. 2.

WRIGHT, THOMAS, Merchant, Rothes, co. Elgin. Sept. 12, at 12, Gordon Arms Hotel, Elgin. *Seq.* Sept. 3.

FRIDAY, *Sept.* 11, 1857.

ALEXANDER, JAMES, Draper, Airdrie. Sept. 19, at 12, Glasgow Stock-exchange, National Bank-bldgs., Glasgow. *Seq.* Sept. 7.

BANNERMAN, JOHN, Baker, Main-st., Anderston, Glasgow. Sept. 15, at 1, Faculty-hall, St. George's-pl., Glasgow. *Seq.* Sept. 5.

CHALMERS, JAMES, Merchant, Dundee, JOHN BEATTIE, Wine Merchant, Montrose, & ROBERT DUTHIE, Iron-founder, Montrose (The Montrose Foundry Company). Sept. 15, at 1, Star Hotel, Montrose. *Seq.* Sept. 5.

GUTTSTAM, ISRAEL, Manufacturer, Glasgow. Sept. 18, at 12, Faculty-hall, Glasgow. *Seq.* Sept. 9.

MACKINTOSH, ALEXANDER, Coal and Wood Merchant, Edinburgh. Sept. 21, at 2, Kennedy's Ship Hotel, East Register-st., Edinburgh. *Seq.* Sept. 9.

MATHER, JOHN, Merchant, Aberdeen. Sept. 17, at 2, Royal Hotel, Aberdeen. *Seq.* Sept. 4.

MURRAY, DAVID ALEXANDER BRUCE, Commission Merchant, Glasgow, Sept. 16, at 12; Globe Hotel, George's-sq., Glasgow. *Seq.* Sept. 5.

PENDREIGH, JAMES, & JAMES DALY, Drapers and Clothiers, Trongate-st., Glasgow. Sept. 15, Globe Hotel, George-sq., Glasgow. *Seq.* Sept 5.

POSSONBY, Mrs. CATHERINE, Editor and Proprietor of the *Christian Family Advocate and Literary Review*, 17 Rutland-sq., Edinburgh. Sept. 18, at 12; London Hotel, St. Andrew-sq., Edinburgh. *Seq.* Sept. 8.

RUTHVEN, WILLIAM, Shipbroker, Dundee. Sept. 22, at 1; British Hotel, Dundee. *Seq.* Sept. 9.

STEWART, JOHN BAXTER, Wine Merchant, Hanover-st., Edinburgh. Sept. 21, at 2; Dowells & Lyon's Rooms, George-st., Edinburgh. *Seq.* Sept. 4.